

MARIN COUNTY ASSESSMENT PRACTICES SURVEY AND ASSESSOR'S RESPONSE

SEPTEMBER 1997

CALIFORNIA STATE BOARD OF EQUALIZATION

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FOREWORD

The county assessor is responsible for the assessment of all taxable property within the county, except state-assessed property. The assessor's responsibilities include such things as (1) discovering and taking inventory of all property within the county, (2) determining a property's eligibility for a full or partial exemption from assessment, (3) determining the proper assessee who is usually but not always the owner, (4) determining the location for assessment purposes of the property, and (5) determining the taxable value of the property in accordance with California property tax law.

Determining taxable value is usually the most difficult and subjective of the assessor's duties. In addition to the inherently subjective nature of the appraisal process, the assessor also has to determine whether the taxable value is to be based on current fair market value or on a value base set earlier. When there is construction activity on a property, the assessor has to determine whether the construction is to be assessed or whether it is excluded from assessment under the law. When there is an ownership transaction, the assessor has to determine whether the law requires a reassessment of the property or whether the property must continue to be assessed according to the existing value base.

The factors discussed above, as well as others not mentioned here, contribute to making local property tax assessment a difficult tax program to administer. It is also a very important program since the property tax is one of the most important sources of revenue for local governments and public schools. For property owners it is a major annual tax burden, and, since it is normally paid in one or two large installments rather than many small increments, it tends to be more visible than most other taxes. Accordingly, proper administration of the property tax assessment program is vitally important both to the public agencies that rely on the tax and to the people who have to pay the tax.

Although the primary responsibility for local property tax assessment is a function of county government, the State Board of Equalization has a number of duties in the property tax field imposed by the State Constitution and the Legislature. One of these duties, performed by the Board's County Property Tax Division, is to conduct periodic surveys of local assessment practices and report the findings and recommendations that result from the survey. The surveys may include a sampling of assessments of the local assessment roll, and they must include research in the assessor's office to determine the adequacy of the procedures and practices employed by the assessor in the assessment of taxable property, compliance with state law and regulations, and other required duties.

The assessor was provided a draft of this report and given an opportunity to file a written response to the recommendations and other findings contained in the report. This report, together with the county assessor's response and the Board's comments regarding the response, constitute the final survey report which is distributed to the Governor, the Attorney General, both houses of the State Legislature; and the county's Board of Supervisors, Grand Jury, and Assessment Appeals Board.

Fieldwork for this survey report of the Marin County Assessor's Office was completed by County Property Tax Division staff during August and September of 1996. This report does not reflect changes implemented by the assessor after the field work was completed.

The Honorable Joan C. Thayer, the Marin County Assessor-Recorder, and her staff gave us their complete cooperation during the assessment practices survey. We gratefully acknowledge their patience and good spirit during the interruption of their normal work routine.

William B. Jackson, Chief
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September 1997

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I. INTRODUCTION, SUMMARY, RECOMMENDATIONS, AND SUGGESTIONS

A. INTRODUCTION

Section 15640 of the Government Code provides in part that the State Board of Equalization (Board) shall:

“ . . . make surveys in each county and city and county to determine the adequacy of the procedures and practices employed by the county assessor in the valuation of property for the purposes of taxation and in the performance generally of the duties enjoined upon him or her. The survey shall include a sampling of assessments from the local assessment rolls sufficient in size and dispersion to insure an adequate representation therein of the several classes of property throughout the county”

It is apparent from this language that the Legislature envisioned the Board's County Property Tax Division's (CPTD) assessment sampling and office survey to be integral components of a unified process, i.e., the evaluation of how well the county assessor is carrying out the sworn duty of assessing all taxable property on the local tax roll. This evaluation was to be based both on actual field appraisals of sampled roll items and in-office interviews and research.

Furthermore, Government Code section 15640 also provides that:
“ . . . The board shall develop procedures to carry out its duties under this section after consultation with the California Assessors Association. The board shall also provide a right to each county assessor to appeal to the board appraisals made within his or her county where differences have not been resolved before completion of a field review and shall adopt procedures to implement the appeal process.”

The way in which the sampling and survey process is carried out was developed after the CPTD staff met with county assessors and their representatives.

This report is the culmination of a review that began with CPTD's staff appraisals of randomly selected assessments on the Marin County 1993-94 tax roll. The survey team analyzed the results of the assessment sampling, then examined current practices and procedures to see whether problems identified in the sampling still existed in the assessor's operation. Finally, the survey team developed positive courses of action, presented here as recommendations and suggestions, to resolve the problems identified in the assessor's programs.

Overview of the Marin County Assessment Roll

Regardless of the size of the county, the assessment of property for tax purposes is a formidable task. Proper administration of this task is vital both to government agencies in Marin County and to taxpayers. Because the job is so important and so complex, it is necessary for an independent agency such as the Board to make periodic reviews of the assessor's operation. This survey report is the result of such a review of the Marin County Assessor-Recorder's Office¹ by the CPTD.

This survey was conducted according to the method mandated by section 15642 of the Government Code. Following legislative direction, our survey primarily emphasizes issues that involve statutory mandate.

Revenue and Taxation Code section 75.60² requires that the Board certify a county as eligible for the recovery of costs associated with administering supplemental assessments. The Board may certify a county as an eligible county if both of the following conditions are determined to exist:

“(A) The average assessment level in the county or city and county is at least 95 percent of the assessment level required by statute, as determined by the board's most recent survey of that county or city and county performed pursuant to Section 15640 of the Government Code.

“(B) For any survey of a county assessment roll for the 1996-97 fiscal year and each fiscal year thereafter, the sum of the absolute values of the differences from the statutorily required assessment level described in subparagraph (A) does not exceed 7.5 percent of the total amount of the county's or city and county's statutorily required assessed value, as determined pursuant to the board's survey described in subparagraph (A).”

The CPTD's field appraisal team completed appraisals of 258 properties of various types assessed on the 1993-94 Marin County local assessment roll. This roll contained nearly 107,000 assessments with an enrolled taxable value of approximately \$21 billion. (For a detailed explanation of CPTD's assessment sampling program, see Appendix A at the end of this report). Sampling data indicated the composition of the roll by property type as follows:

¹ For purpose of this survey report, we will refer to Ms. Joan Thayer specifically as the assessor-recorder and to her operation as the assessor-recorder's office.

² All statutory references are to the Revenue and Taxation Code unless otherwise indicated.

<u>Property Type</u>	<u>No. of Assessment in County</u>	<u>Enrolled Value</u>
Residential	84,532	\$17,176,409,174
Commercial/Industrial	10,030	3,222,685,018
All Others	<u>12,068</u>	<u>594,647,673</u>
Total	106,630	\$20,993,741,865

As a result of our sampling, we find that Marin County's 1993 assessed value of \$20,993,741,865 was 99.5 percent of the statutorily required \$21,090,397,781. When the sampling data are expanded to represent the entire roll, it indicates an underassessment of approximately 8,100 properties by about \$145 million, while about 3,600 properties were overassessed by approximately \$41 million.

Based upon our recent assessment sampling, the Board certified Marin County as an eligible county. This indicates that its assessment program is substantially in compliance with the law. The recommendations and suggestions contained in this report are based on our analysis of data and a review of the office procedures which indicate that statutory violations, underassessments or overassessments, or unacceptable appraisal practices may be occurring in specific areas.

B. SUMMARY

In Marin County the Assessor's and Recorder's offices are combined resulting in enhanced communication and efficiency. The total staff for the combined office is 76. Of this total, 53.5 positions are dedicated to assessment functions and 22.5 to recorder functions.

The assessor-recorder has accomplished many positive things since our last published survey report (1993). These include timely processing of change in ownership assessments despite a 30 percent increase in recorded documents; initiating a direct enrollment program; maintaining a comprehensive new construction program; ensuring that all water companies in the county are properly assessed; maintaining an excellent disaster relief program; implementing a new software program for the business property section; and implementing a new tracking program to expedite the processing of assessment appeals.

In addition, the assessors-recorder's staff has been working closely with the Information Services and Technology staff to design their portion of the new Tax Assessment Property Information System (TAPIS). This IBM main frame based system administers the property tax program in Marin County. Currently, only the Auditor-Controller and Tax Collector's office is fully integrated into TAPIS.

The TAPIS design stage started in December 1995 and the target date for full implementation is July 1998. Although this system was not operational at the time of CPTD's fieldwork, many of the problems raised during our review will be addressed by the implementation of this system. We commend the assessor-recorder for the steps taken to improve

her program, as well as having the foresight to address current shortcomings in the current system and willingness to commit staff time to implement a new system.

The primary real property programs of any assessor's office are the change in ownership and new construction programs. In Marin County, these programs are very effectively administrated.

The change in ownership program is well coordinated. Recorded deeds are processed and keyed into the assessor-recorder's database; the mapping section determines if a recorded document results in a change in ownership; the valuation division reappraises the property; and the administrative division enrolls the new values. The assessor-recorder's office has an excellent tracking system in place to ensure that no changes in ownership are overlooked and that all transfer events are completed in a timely manner.

The assessor-recorder initiated a direct enrollment program in 1995. This is an in-house Macintosh based application program developed by the staff that processes the property's selling price and converts it into the assessed value. As mentioned in our previous survey report, the assessor-recorder's office has developed numerous application programs to assist in producing the assessment roll. These programs have greatly assisted the assessor-recorder in meeting the increased assessment workload in spite of budgetary reductions.

Since the implementation of the direct enrollment program, about one-half of all transferred properties have been directly enrolled. The program is appropriate primarily for residential property and allows the field appraisers to review the indicated values prior to enrollment.

The new construction program is very comprehensive, with an excellent procedures manual and a computer database for permit tracking. The office obtains permits from all issuing agencies which are culled according to written guidelines. In addition, new construction questionnaires are regularly sent to permit owners.

Water companies are few and their value increment on the assessment roll is small. However, the assessor-recorder has a good program for assessing these properties. Records are current and well documented; it appears that all known water companies are assessed according to approved assessment procedures.

In 1995 the business property staff implemented a new software program which enabled the business property staff to expedite the preparation of the 1995 and 1996 unsecured roll. Specifically, it allowed the staff to complete their 1996 statement processing in record time and with greater accuracy and consistency. The addition of this program has greatly enhanced the office's ability to efficiently produce an assessment roll. We commend the assessor-recorder for her innovative use of computer technology.

The large volume of assessment appeals produced a backlog of unprocessed assessment appeals applications. In addition there was a duplication of effort in that the Clerk of the Assessment Appeals Board (Clerk) and the assessor-recorder maintained a similar database

of assessment appeals information. The assessor-recorder and the Clerk have addressed these issues by creating a common database for use by both agencies. In addition, the assessor-recorder's office offered to key in the necessary data for all applications approved by the Clerk. While it reduced the workload of the Clerk, it also allowed the assessor-recorder's office to start the appeals review sooner, and simplified the tracking of the appeal application within the appeals process.

In our 1993 survey report, we made 17 recommendations for changes to the assessor-recorder's assessment program. During our fieldwork for this survey, we found that several of our recommendations had been implemented by the assessor-recorder. However, we found that many others had not been implemented, especially those regarding the business property program.

Specifically, the assessor-recorder implemented the following changes as recommended in our 1993 survey:

1. Revised the change of ownership report to conform to statutory provisions.
2. Adjusted the base year value to reflect the removal of property and added a written procedure to the real property manual reflecting this change.
3. Revalued all changes in ownership of possessory interests.
4. Revised the assessment procedures for the valuation of land subject to Land Conservation Act contracts.
5. Revised the manufactured home valuation process.

Further discussions of these improvements are included in the body of this report, including areas where the assessor-recorder did not follow our recommendations.

The assessor-recorder's office is still using comparable sales in excess of 90 days past the valuation date (date of transfer). There is some disagreement concerning the interpretation of section 402.5. However, it is the Board's staff opinion that section 402.5 is clear concerning the validity of using comparable sales more than 90 days past the valuation date when using the sales comparison approach.

Although the assessor-recorder's staff have revised their possessory interest procedures to revalue all changes in ownership, they have not changed the use of an arbitrary capitalization rate nor are they reviewing all uses of fairground facilities to discover if a taxable possessory interest exists. We repeat this recommendation in our current report.

A major problem with the assessor-recorder's assessment program is the failure to stay current with mandatory audits. The assessor-recorder had determined that implementation of the new business property computer program, Unsecured Property Assessment System (UPAS), was the top priority for the staff for the 1995 and 1996 years. Therefore, the mandatory audits and other aspects of the business property program were placed on hold pending implementation of UPAS.

We agree that the implementation of UPAS was crucial to bring the assessor-recorder's program into the current state of technology. In fact, due to the current budget crisis, there is a real need to improve efficiency, streamline data processing, and provide ready access to property assessment data. UPAS meets this crucial need. However, to sacrifice major components of the business property program by directing all staff efforts into implementing UPAS is questionable.

In addition, other aspects of the business property program should be revised. The aircraft and boat assessment program should be reinstated in full force. The improper exemption of boats (due to an inappropriate in-house low-valued property exemption) should be terminated. Assessments of apartment personal property should be reviewed and the arbitrary fixed assessment should no longer be used. Finally, interest on unsecured roll escape assessments should be noted for inclusion on the tax bill by the county auditor-controller's office.

C. RECOMMENDATIONS AND SUGGESTIONS

Following are the recommendations and suggestions contained in this report. They are listed in the order they appear in the report along with the page number on which they can be found.

- RECOMMENDATION 1: Use comparable sales occurring no more than 90 days after the subject's date of transfer when valuing property by the comparative sales approach. (Page 13)
- RECOMMENDATION 2: Revise possessory interest assessment practices by: (1) using appropriate capitalization rates and (2) assessing private uses of Marin Center. (Page 20)
- RECOMMENDATION 3: Reinstate the mandatory audit program and bring it to a current status. (Page 31)
- RECOMMENDATION 4: Develop a policy and procedures manual pertaining to the operation of the business property section. (Page 35)
- RECOMMENDATION 5: Revise procedures for assessing personal property in apartment buildings. (Page 39)
- RECOMMENDATION 6: Upgrade vessel assessment procedures by: (1) assessing all boats; (2) appraising boats at market value; (3) applying the section 463 penalty correctly; and (4) requiring certain vessel owners to file annual vessel property statements. (Page 42)
- RECOMMENDATION 7: Assess computers using the Board's recommended factors. (Page 44)

- RECOMMENDATION 8: Notify the county auditor of escaped assessments requiring section 506 interest. (Page 47)
- RECOMMENDATION 9: Assess all property unless statutorily exempt. (Page 49)
- RECOMMENDATION 10: Improve the automated management information system by: (1) documenting all in-house computer software programs; (2) storing the backup programs and data at a safe offsite location; and (3) placing all computer hardware in a safe, secure location. (Page 50)
- SUGGESTION 1: Make the sales list more accessible to taxpayers. (Page 12)
- SUGGESTION 2: Revise the open-space procedures as follows: (1) use animal unit months (AUM's) in the analysis of grazing lands; (2) revise the procedure for valuing ponds and reservoirs on CLCA properties; (3) develop a formal written summary of CLCA practices and procedures. (Page 23)
- SUGGESTION 3: Consider value estimates listed in recognized manufactured home value guides and note these suggested values on appraisal records. (Page 26)
- SUGGESTION 4: Obtain signed waivers of the statute of limitations when a mandatory audit will not be performed on time. (Page 33)
- SUGGESTION 5: Develop a formal nonmandatory audit program. (Page 34)
- SUGGESTION 6: Revise procedures for estimating assessments of business property. (Page 36)
- SUGGESTION 7: Ensure that a written authorization is included with the filing of business property statements by corporations. (Page 37)
- SUGGESTION 8: Upgrade the assessment of leasehold improvements by: (1) assigning the assessment of leasehold improvements to the real property section; and (2) re-emphasize coordination between the real property and business property sections. (Page 40)
- SUGGESTION 9: Clearly identify leasehold improvements on appraisal records. (Page 41)

II. ADMINISTRATION

A. INTRODUCTION

The offices of recorder and assessor were consolidated in Marin County in October 1979, pursuant to County Ordinance 2420. Marin was one of the first counties to take such action. This consolidation has proven very successful. Almost all of the assessor's change in ownership workload is generated by recorded documents, e.g., deeds. By merging these two offices, the flow of recorded deeds and other documents is more efficient and timely. In fact, over the last few years, a number of counties have merged the functions of these offices in order to reduce costs and provide improved service to taxpayers.

B. STRUCTURE OF OFFICE

The assessor-recorder's office is divided into three divisions: Administrative Division, Valuation Division, and Assessment Systems and Standards Division. This structure allows the assessor-recorder's office to function effectively.

The Administrative Division is directed by an assistant assessor. The functions under this division are mapping, recording, administrative services, budgeting, and technical support (hardware). The operations and functions of the recorder's office are performed within this division.

As it relates to the assessment function, the Administrative Division is responsible for the preparation of the assessment rolls. This division is responsible for maintaining the assessment database while the Valuation Division is responsible for property valuation. The Administrative Division is responsible for transmitting assessment information regularly to the countywide property tax database, Tax Assessment Property Information System (TAPIS).

This Administrative Division also provides various support services. Key among them is the hardware support provided by the technical support section. This section not only maintains the micrographics equipment, but also all the computer hardware for the assessor-recorder's office.

The Valuation Division is directed by an assistant assessor. The functions of this division are to value all taxable property and respond to all assessment appeals.

The Assessment Systems and Standards Division is supervised by a division chief. The division's functions include maintaining the Production Monitoring System, developing procedures for the real property procedures manual, evaluating property tax legislation, monitoring appraisal and assessment standards, developing in-house training classes, maintaining a resource library for real property data, and acting as liaison with other county departments. One of its most important functions is to maintain the Parcel Activities List (PAL) which is the key product of the Production Monitoring System.

The Production Monitoring System is the database system that tracks the real property workload in the assessor-recorder's office. All change in ownership documents, construction permits, and other documents that initiate real property workload are keyed into this database. In addition, this system generates the management reports that are used to analyze the workload and production of the real property section of the office.

C. EMPLOYEE TRAINING

Section 670 provides that no person may perform the duties of an appraiser for property tax purposes unless he or she holds a valid certificate issued by the Board of Equalization. Section 671 further provides that all appraisers shall complete at least 12 or 24 hours of training each fiscal year in order to retain such a certificate. Twelve hours of training are necessary if the appraiser holds the advanced certificate and 24 hours are required for those appraisers holding the basic appraiser certification.

Of the 31 appraisers and auditor-appraisers on the staff, 24 (7 with advanced certification, 17 with permanent certification) needed training prior to June 30, 1997 in order to meet the requirements of sections 670 and 671. The assessor-recorder is well aware of the training needs of her staff and has moved to schedule appropriate workshops to address those needs.

III. REAL PROPERTY PROGRAM

A. INTRODUCTION

The real property section is part of the Valuation Division of the Marin County Assessor-Recorder's Office. The three main programs for assessing real property under the provisions of article XIII A of the California Constitution (Proposition 13) include:

- revaluation of properties that have changed ownership;
- valuation of new construction; and
- annual review of properties having declining values ("Proposition 8" appraisals authorized by section 2(b) of article XIII A)

In addition to the above, the assessor-recorder maintains programs to annually review certain properties subject to special assessment provisions under the California Constitution, e.g., land subject to the California Land Conservation Act contracts, taxable government owned land.

The workload database for the real property section is initiated and maintained by the Assessment Systems and Standards Division. At the beginning of each assessment year, a report is generated that contains the properties that require annual reviews. This report is constantly revised to include new transfers and permitted new construction. This program also tracks the status of the workload for the change in ownership and new construction programs.

Our review of the real property assessment program indicates most aspects are functioning well. However, we offer several recommendations that we think will improve a good program.

B. CHANGE IN OWNERSHIP

1. Sampling Results

CPTD's sampling of Marin County's 1993-94 roll included 89 properties that transferred title from 1988 through 1993; 41 of these were Proposition 8 reductions (value reductions) for the 1993-94 roll. Of the remaining 48 samples, two had minor value differences (one was due to a difference of opinion in value and the other was the county failing to apply the proper inflation factor). These minor value differences did not indicate any significant problems with the assessor-recorder's change in ownership program.

2. Deed Processing

In the five months prior to our fieldwork, the recording section had seen a 30 percent increase in documents processed from the previous year, and to their credit, this has not resulted in a backlog. The fact that Marin County has consolidated the offices of assessor and recorder indicates that the close relationship between the two functions is beneficial. Deeds are processed as follows:

(1) Administrative Division

- (a) Recording section: records the deed and forwards it with the Preliminary Change of Ownership Reports (PCOR's) to the mapping section.
 - (b) Mapping section: assigns assessor's parcel numbers to deed; determines the change in ownership implications of the recorded deed (e.g., 100 percent or partial interest transfer, leases, or trusts); creates sticker labels for the appraisal records indicating the name of the new assessee, document reference number, and the type of transfer; enters deed data into the assessor-recorder's database; and forwards the PCOR, deed, and label sticker to the Assessment Systems and Standards Division.
- (2) Assessment Systems and Standards Division: pulls appraisal records; applies sticker labels to the appraisal records; gathers Multiple Listing Service (MLS) information; and forwards the packet (including PCOR, deed, the appraisal records, and MLS data) to the Valuation Division.
- (3) Valuation Division: values the property and forwards the packet with the new assessment to the Administrative Division.
- (4) Administrative Division: enrolls the new values, refiles the appraisal records and sends the PCOR and deed to the Mapping Section for conversion to microfiche.

3. Legal Entity Ownership Program

Section 64(c) provides that a change in control of any legal entity is a change of ownership for property tax purposes of all real property owned by that entity as of the date of the change in control. The Legal Entity Ownership Program (LEOP) unit of the Board's Policy, Planning, and Standards Division (PPSD) tracks changes in control of legal entities owning real property in California. In the preceding five years (as of August 1991), the LEOP unit has notified the Marin County Assessor-Recorder's Office of the change in control of 31 legal entities owning 66 parcels. The primary method for LEOP to discover a change in control is through responses to questions on corporate and partnership tax returns filed with the State Franchise Tax Board. Other methods of discovery include researching financial publications and reportings by the assessor-recorder's staff.

In the 1993 Marin County assessment practices survey, CPTD suggested the assessor-recorder's office "expand efforts to discover changes in ownership of real property owned by legal entities." Our suggestion was to have the business property section review the responses to questions (g) (1) through (g) (4) of Part 1 of forms AH 571-F and AH 571-L, the annual business property statements. These questions pertain to transfers of real property, long-term leases, and changes in control. If appropriate, we suggested sending the taxpayer a Change in Ownership Statement (COS) and notifying the real property section so it can investigate the potential transfer more thoroughly.

From interviews with real property and business property staff, it appears the communication between the two sections has improved. The annual business property statements are reviewed for change of ownership and copies are forwarded to the real property section as needed. In addition, COS's are sent to taxpayers where appropriate. There is a memorandum system in place between the two sections that formalizes and facilitates this function.

A random sampling of LEOP transfers showed that the assessor-recorder's staff reappraises the real property when notified by LEOP. In addition, the staff have expanded their efforts to discover these types of change in ownership through regular review of various financial publications.

4. Property Transfer List

Section 408.1 requires all assessors in counties with populations exceeding 50,000 people to maintain for public inspection, a two-year listing of transfers of any interest in property, other than undivided interests, within the county. The list must be updated quarterly and include the following information: assessor's parcel number, transferee, recording date, recording reference number, property characteristics, and selling price, if known.

The assessor-recorder maintains an updated sales list on microfiche available for public inspection at the front counter. The sales list maintained by the assessor-recorder's office is in compliance with section 408.1 because it includes all information required by statute. Although it complies, it is inconvenient for taxpayers to access, as there is only one set of microfiche kept behind the counter and it must be requested from the counter clerk.

SUGGESTION 1: Make the sales list more accessible to taxpayers.

The current situation with one set of microfiche kept behind the counter for public use, is inconvenient. There is typically only one clerk at the front counter to assist taxpayers. If the counter area becomes busy, a taxpayer must wait in line to request the microfiche. In some counties, the sales listing is a computer run that is left at the counter for easy access by the public. We suggest that the assessor-recorder's office generate a printed sales listing for taxpayers to use at the public counter, or devise a method to enable the taxpayers to freely access the microfiche.

The county also produces a Property Transfer List (PTL) which is separate from the sales list. The PTL, which may be purchased, is printed bi-weekly. In addition to the sales information, the PTL includes: documentary transfer tax amount, transferor, and loan balance(s). The PTL is available for \$600 per year by subscription only.

5. Comparable Sales

Whenever valuing property by the comparative sales approach, section 402.5 requires the appraiser to use comparable sales that are near in time to the valuation date of the subject property.

RECOMMENDATION 1: Use comparable sales occurring no more than 90 days after the subject's date of transfer when valuing property by the comparative sales approach.

The assessor-recorder's staff use comparable sales in excess of 90 days past the event date to support their estimations of market value. This problem was addressed in the 1993 survey report. At that time the former assessor-recorder contended that section 402.5 excludes sales which have occurred more than 90 days past the lien date and that section 2192 established the lien date as 12:01 a.m. on the first day of March. The current assessor-recorder has not changed this policy.

We disagree with the assessor-recorder. Under this interpretation, a property that transferred in April of 1992 could be supported by comparable sales occurring as late as May of 1993, 13 months after the event date. Furthermore, when supplemental assessments were introduced in 1983, the lien date definition was affected by section 117, which provides that the "lien date" is the time when taxes for any fiscal year become a lien on the property. The effect of this section was to make the lien date a flexible event that works in conjunction with supplemental assessments.

Finally, subdivision (d) section 3247 Title 18 of the California Code of Regulations (Property Tax Rule 324(d)) requires the appeals board to not consider sales occurring more than 90 days after the date of valuation. This regulation interprets the Revenue and Taxation Code requirements for county assessors and assessment appeals boards alike and must be followed by the assessor's staff in using comparable sales to establish market value for properties subject to assessment appeals. The lien date is now, for all practical purposes, the event date.

In order for the assessor-recorder to be in compliance with the statutory provisions, we repeat our recommendation that the staff use only comparable sales occurring no more than 90 days past the event date. By using sales near in time to the event date, the staff will have more reliable evidence of subject's market value as of the event date and will also meet the legal requirement for comparable sales for assessment appeals.

6. Direct Enrollment

The Marin County Assessor-Recorder's Office instituted a direct enrollment program under the Administration Division in October 1995. At the time of our fieldwork for this survey it had been operational for one year. It is estimated that about one-half of all properties that are sold are now enrolled directly. Only the following property types are included in the program: improved residential property, residential vacant land, and multi-unit residential properties (two units only).

The program is a Macintosh-based application that is designed to lead an assessment recording technician (ART) through a series of decision points to directly enroll the selling price. Only the appropriate property types with a returned PCOR are routed to the direct

enrollment program. If successfully negotiated, the program will generate an indicated value for the subject property and print a value and comment label which will be attached to the appraisal records. The application is an in-office product written in OMNIS 7, a relational database.

As each daily batch of sales is entered into the direct enrollment program, a listing is distributed to the appraisers showing: the parcel number, use code, if applicable, the number of units, whether attached or detached improvements, deed number, event date, square footage, class, COS price, indicated total value, land allocation, improvements allocation, bonds, personal property, and credits to the buyer. The values or allocations may be overridden at this time. If no correction is forthcoming within one week, the values are then enrolled.

This program was well designed. It analyzes many variables that affect value before directly enrolling the purchase price. The assessor-recorder's office has conducted studies to support the land allocation in the program for attached improvements (condominium properties). For detached properties, a land residual technique is employed that reasonably approximates the land value.

The assessor-recorder's office uses a combination of its own developed costs and PPST cost tables to derive the replacement cost new (RCN) of residential improvements. This is an important feature of the program as incorrect RCN data can skew the land and improvement allocations. With approximately one-half of all transferred properties being directly enrolled, the appraisal staff is free to handle more complex appraisals. The Marin County Assessor-Recorder's Office is to be commended for implementing a productive, efficient program.

7. Improvement Bonds

Improvement bonds are a form of public financing associated with land improvements that generally enhance the land's value. For an assessment district to obtain this type of financing, land benefiting from the improvements must be pledged as security for repayment of the loan. As a lien against the land, the improvement bond is an obligation that must be assumed by the land owner of record or any successors in interest. For this reason, when using the comparative sales approach to determine taxable value, the appraiser must include the unpaid cash equivalent principal of any outstanding improvement bond as an adjustment to the nominal selling price (see Assessors' Handbook Section 501, *General Appraisal Manual*, 1982 edition, page 70).

Marin County actively encourages use of the 1915 Act bonds for their serviceability (banks will not provide billing service on the 1911 Act bonds) and their inclusion on the property tax bill. The 1911 Act bonds are serviced by the treasurer-tax collector individually and billed separately; they have a different due date than the property tax bill. For these reasons, the 1915 Act bonds are the preferred choice to finance needed improvements.

In Marin County there are 5,730 parcels encumbered by 1915 Act bonds with an outstanding principal balance of \$3,916,300. The 1911 Act bonds include 127 parcels with an outstanding principal balance of \$858,350. (Mello-Roos bonds are not considered a proper adjustment to the selling price for property tax purposes and therefore, there is no adjustment to

the selling price for these types of bonds. The auditor-controller's office maintains a listing of these bonds, but the assessor-recorder's office does not use it.)

Each year the treasurer-tax collector's office supplies the assessor-recorder with a list of outstanding 1911 Act bonds. In addition, the auditor-controller's office supplies the assessor-recorder's office with a list of outstanding 1915 Act bonds. The amounts from these lists are entered into the computer database of the assessor-recorder's office. The sale prices of directly enrolled transferred properties that have outstanding bonds are adjusted by the ART.

There is a hard copy list available for appraisers if the property does not go through the direct enrollment process. We randomly sampled 27 properties with outstanding bond balances. We found that the sales price had been adjusted by either the appraiser processing the transferred property or by the direct enrollment process. The assessor-recorder's staff is diligent in checking and adding outstanding bond balances.

The change in ownership processes reviewed by CPTD, aside from two disagreements on interpreting tax law, reflected a very effective change in ownership program, as evidenced by flow of documents, a new direct enrollment program, and attention to outstanding bond balances.

C. NEW CONSTRUCTION

1. Sampling Results

The CPTD sample of the 1993-94 assessment roll included 61 properties identified as having experienced new construction since the last survey. The statistical sampling in this category included four entries with nonconforming values. In all four cases, the county's assessed values were lower than CPTD's appraisals.

Differences in appraisal judgment were the cause of the undervaluation of each of the four sample items. On one sample item, the value difference was due to an estimate of value for air conditioning included in a second story addition. The specific cause on the other three properties was a difference of opinion between CPTD staff and the county appraisers as to the percent good on remodeling.

In addition to the new construction samples, there were an additional 70 new construction samples identified as base year properties. Within this category, there was only one case where new construction escaped assessment.

2. Permit Processing

Marin County has 12 building permit-issuing agencies: the County of Marin and the cities of Belvedere, Corte Madera, Fairfax, Larkspur, Mill Valley, Novato, Ross, San Anselmo, Sausalito, San Rafael, and Tiburon. Combined, these agencies issue an annual total of about 8,900 permits.

Building permits are received in the assessor-recorder's office from each issuing agency on a monthly basis. The permits are routed to an assessment technician who puts the permits in numerical order, logs in the dates the permits were received, and verifies the permits. Verification involves confirming the owner's name, the property address, the use code, the number of living units, and the assessor's parcel number. Then they are ready to be "culled." Culling is the process of identifying and discarding permits for work that will not add value to a property as a result of new construction. An example of a permit which would be culled is one where a hot water heater is being replaced. The guidelines used by the assessor-recorder's staff for culling permits are:

- (1) Single items (\$25 minimum charge) for electrical, mechanical, and plumbing;
- (2) Dry rot and termite repairs under \$5,000;
- (3) Plan review, zoning review, and insulation permits issued by the county;
- (4) Sprinkler system permits--does not include irrigation permits;
- (5) Permits which reflect a change of the contractor; and
- (6) Reroof or roof repair permits near or under \$20,000.

After culling, the pertinent data from the remaining permits, e.g., permit number, parcel number, permit date, description of work, use code, are entered into the computer database. The computer program generates mailing labels for the "Property Owner's Statement on New Construction." There are three forms of this statement: (1) for one- and two- family residential parcels; (2) for new single-family dwellings; and (3) for commercial/industrial parcels. The label is attached to the appropriate form and mailed to the property owner. The mailing date is keyed into the database.

When the completed statement is returned to the assessor-recorder's office, the date received is stamped on the form and entered into the database. Then the form is distributed to the appropriate appraiser.

During the month prior to the March 1 lien date, second statements are sent to all property owners who did not return the original. The appraisers have an opportunity to override the second statement mailings if they already have sufficient information.

A monthly edit report is produced which lists by permit-issuing agency the number of permits keyed into the database and the number of permits culled, as well as totals for the entire county. The permits are then filed by city and kept in numerical order. A report is generated containing all non-culled permit information, which in turn is used to create a master work list for appraiser assignments. Appraisers are responsible for the review and valuation of the permit work in their geographical areas. When the permit work is complete, the appraiser notes the permit number, date of completion, and action taken on the appraisal record. The record is then submitted for enrollment.

3. Summary

The Marin County Assessor-Recorder's Office has a very comprehensive program for assessing all new construction within the county. The county's procedures are extensively covered in the Assessment Procedures Manual (APM). The manual includes sections on the assessment of all new construction, new buildings and additions, remodeling and alterations, removal of property (demolition), construction in progress, class and effective year, etc.

Due to the minimal amount of current real estate development in Marin County, the majority of new construction activity is in the form of remodeling and additions to existing single-family residences. The procedures in the APM are closely followed in this activity.

In the previous survey it was recommended that the staff adjust the base year value of property to reflect the removal of property during remodeling. The assessor-recorder agreed with CPTD's recommendation and amended the APM to address this issue. A random review of the building permits and appraisals files indicated that the assessor-recorder's office is now complying with our previous recommendation. Overall, our review indicates that the county's new construction program is well administered.

D. DECLINES IN VALUE (PROPOSITION 8)

When article XIII A (Proposition 13) of the California Constitution was originally passed in June 1978, it included a provision for increasing the taxable value of properties at a rate not to exceed 2 percent per year; however, there were no provisions to compensate for declines in property values. On November 7, 1978, an amendment (Proposition 8) was passed which allows the taxable value to reflect factors causing a decline in value. The Legislature amended section 51 to implement this Constitutional amendment. Thus, section 51 as amended provides that the taxable value of real property shall be the lesser of the base year, adjusted annually by an inflation factor of no more than two percent or the current market value.

In 1990 the Marin County Assessor-Recorder suspected that real estate values had peaked and were beginning to decline, and as a result, implemented a review of residential sales for the past few years. The review indicated that the median price of single-family residences had peaked in June 1990 and had fallen sharply thereafter. Therefore, the staff analyzed all residential sales occurring from mid-1989 through lien date 1991. The analysis indicated that values for single-family detached residences along the entire urban corridor (Highway 101) were in a slump, but the residential values in West Marin County and vacant residential land were not declining.

Based upon these findings, the assessor-recorder established a program of value reductions for the 1991-92 roll. The parameters set forth in the program are limited to:

- Properties that sold or transferred between September 1, 1989 and September 30, 1990.
- Detached single-family residences only.
- Properties valued under \$700,000.
- Properties located in West Marin County are exempt.

The assessed value of parcels that met the above criteria were adjusted as follows:

<u>SALE DATE</u>	<u>DISCOUNT</u>
September 1, 1989 through March 30, 1990	8%
April 1, 1990 through August 31, 1990	12%
September 1, 1990 through September 30, 1990	8%

For the 1992-93 assessment roll, the assessor-recorder's staff determined that real estate values had stabilized and no further adjustment was warranted. The assessor-recorder's staff further determined that since values had stabilized and were essentially flat, the properties that had "declined" for 1991-92 roll should remain the same. Additionally, sales and transfers which occurred between October 1, 1990 through June 30, 1991 that met the 1991 criteria were not increased by the inflation factor.

For the 1993-94 assessment roll, the assessor-recorder's staff determined that the stagnant real estate market affected all improved properties in the county without regard to price or location. Consequently, the inflation factor was not applied to the factored base-year value of any improved property that sold or transferred from September 1, 1989 through June 30, 1992. In addition, the taxable value of all properties treated for Proposition 8 purposes in 1992 remained the same.

For the 1994-95 and succeeding assessment rolls no change in the market was noticed. Therefore, the same Proposition 8 action taken for the 1993-94 assessment roll was applied to properties treated for Proposition 8 purposes in 1993 and all transfers from July 1, 1992 to lien date 1994.

The latest count for outstanding Proposition 8 parcels was 18,849. This figure includes 14,613 parcels described as "clean declines" (properties affected by transfers only) with the remaining 4,236 parcels described as "dirty declines" (properties affected by one or more transfers plus subsequent action such as new construction.) The reduction in value of these Proposition 8 parcels was estimated at approximately \$650,000,000 or roughly \$30,000 per parcel.

Basically, for the 1992-93, 1993-94, and 1994-95 assessment rolls, the assessor-recorder's program for declining value properties was to suspend the application of the inflation factor for those respective years. These adjustments appear to be supported by the studies completed each year by the staff.

The assessor-recorder's staff is currently developing a sales analysis program which will assist the staff to more accurately determine the current market value of real property. This program will analyze sales to determine the factors that influence value. Therefore, we encourage the assessor-recorder to continue development of the new sales analysis program.

E. SPECIFIC PROPERTY TYPES

1. Possessory Interests

The Marin County Assessor-Recorder's Office assesses about 980 taxable possessory interests (PI's) with a total 1996-1997 assessed value in excess of \$215,900,000. Two members of the appraisal staff are responsible for the appraisal of all possessory interests. They annually contact 48 public agencies with known PI's to obtain current information on tenants and rents. Staff periodically contact an additional 33 governmental agencies that own real property in Marin County to ensure that any newly created PI's are assessed.

Reservation of Estate for Years

For more than two decades, the National Park Service of the Department of the Interior has purchased real property from private parties to create and expand the Point Reyes National Seashore Park. In some cases, the sellers reserved a right to occupy or use the property for residential or agricultural purposes or both for a period of up to 40 years. In doing so, they reserved an estate for years in the transferred property. The assessment practices sampling team in reviewing the 1993 assessment roll noted that the assessor-recorder's staff treated these transfers in titles as changes in ownership for property tax purposes and reassessed the reserved estates for years as newly created possessory interests.

Due to the complexity of this issue, the CPTD staff referred the issue to the Board's Legal Division, which concluded in part that:

" . . . where the owner of real property conveyed such real property to the USA reserving to the grantor and his heirs and assigns the right of use and occupancy for livestock ranching and single family residential purposes only . . . an estate for years was reserved to the grantor and that under Property Tax rule 462, subdivision (e), no change in ownership occurred."

Section 62(e) excludes from reassessment for change in ownership any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life. Thus, no change in ownership occurs for the reserved estate when an owner transfers real property to the National Park Service but retains an estate for years. And since there is no change in ownership, there is no taxable possessory interest for the transferor. In addition, any subsequent

transfer of such an estate for years to a third party is neither a transfer of nor a creation of a possessory interest, if the remaining term is less than 35 years.

When notified of the Board's Legal Division's findings, the assessor-recorder's staff conducted a review of properties purchased by the National Park Service. Where they found that a revaluation had been made for transfers in title where the sellers created an estate for years, staff corrected those assessments to the original factored base year values, and made appropriate roll corrections. We commend the assessor-recorder for taking such quick action when the problem was brought to her attention.

Program Improvements

Although possessory interest assessments comprise only a small fraction of the total roll value in Marin County and the PI program is generally satisfactory and well maintained, we found several areas, both new and continuing, where changes must be made in order for the program to come into full compliance with statutory requirements. In our 1993 survey report, we recommended several changes in the areas of the capitalization rate, rents to capitalize in the income approach, and private uses of county facilities during the county fair. Some have been incorporated into the possessory interest program but others were not. For this reason, we repeat a portion of our earlier recommendation, and recommend additional revisions to the possessory interest program.

RECOMMENDATION 2: Revise possessory interest assessment practices by: (1) using appropriate capitalization rates, and (2) assessing private uses of Marin Center.

Use Appropriate Capitalization Rates

Whenever possible, appraisal staff use the direct approach to value possessory interests. In our previous survey report we concurred that this approach is appropriate. However, we noted that for a number of years the staff used an arbitrary nine percent capitalization rate to convert the rent into an indicated value. We recommended that staff conduct a comprehensive review of the market to determine the appropriate capitalization rates for the various possessory interests.

In our current review we noted that no rate review has been conducted and that the capitalization rate has remained unchanged. We again recommend that staff conduct a comprehensive review of the market to determine capitalization rates appropriate for valuing possessory interests.

Marin Center

The Marin Center is a complex of buildings and grounds owned by Marin County that consists of the Marin County Civic Center, a post office, the Marin Veterans' Memorial Auditorium, the Showcase Theater, and an exhibit hall. The Marin County Fair is held annually at the Marin Center. Private individuals and groups may rent theaters, exhibition halls, meeting

rooms, and open space on the grounds for a variety of activities ranging from private meetings and flea markets, to live performances and concerts by prominent performing artists.

Our preliminary research indicates there are a number of private uses of the Marin Center that are sufficiently durable, beneficial, exclusive, and independent to warrant assessment as taxable possessory interests. These include recurring uses of the Marin Center during the period of the county fairs and interim uses by organizations or private individuals during the remainder of the year.

The Marin County Department of Parks, Open Space and Cultural Services operates the annual Marin County Fair at the Marin Center. The Marin Center rents space to groups and individuals, both public and private, for the five days of the fair each year. Renters are usually exhibitors or concessionaires who pay a fixed percentage of their gross sales as rent. Although renters sign contracts for the right to use and occupy Marin Center facilities on a year-to-year basis, we noted that most concessionaires are permitted to return each year and that many have returned for several consecutive years, indicating that there is little likelihood of termination.

Most of the county fair concessionaires and exhibitors have continuity of possession necessary to establish a possessory interest as outlined in Property Tax Rule 22 (b)(2). We determined that there is sufficient evidence to show that on any lien date there is a history of recurrent possession by concessionaires and exhibitors. Therefore, it is certain that the possessors have taxable possessory interests in the Marin Center.

In our review we noted none of the possessory interests of the fair's concessionaires or exhibitors have been assessed. We recommend that assessor-recorder's staff review the contract agreements at the Marin County Fair to determine their accessibility as taxable possessory interests and assess them where appropriate.

In addition to the annual use by the county fair, Marin Center leases or rents its facilities and grounds to private individuals and organizations for dances, pet shows, dealer shows, and a variety of other uses. Terms of such leases are about two days or less.

Some of the uses may not qualify as taxable possessory interests because they are community sponsored projects. Other uses may not qualify because they are a single event with no history or likelihood of recurrence.

However, it is apparent that there are a number of interim uses at the Marin Center that meet the standard of continuity because of their history of recurring use. Some of the organizations have been conducting their events at the Marin Center for a number of years.

We recommend that assessor-recorder's staff review all private uses at the Marin Center. Since most uses are based upon year-to-year contracts, they may require annual revaluation. Those uses judged to be possessory interests should be enrolled and escaped assessments issued as necessary.

2. Government-Owned Lands Located Outside Their Boundaries

The Constitution of California exempts from taxation property owned by a local government (article XIII, section 3) except lands and the improvements thereon that are located outside its boundaries and that were subject to taxation at the time of acquisition. These taxable government-owned properties are commonly referred to as section 11 properties because their assessment procedures are contained in section 11 of article XIII of the California Constitution.

The California Supreme Court recently decided in *City and County of San Francisco v. County of San Mateo et al.* (1995, 10 Cal. 4th 554) that section 11 properties are also subject to article XIII A of the California Constitution. Briefly, the value of the land must be the lowest of (1) the 1967 assessed value adjusted by a factor supplied annually by the State Board of Equalization (section 11 value), (2) the current fair market value, or (3) the factored base year value (Proposition 13).

In addition, the value of any improvement is established when the property is acquired by the local government. Subsequently, the assessor-recorder enrolls the lower of the factored base year value or the current market value. Improvements constructed subsequent to acquisition are exempt unless a structure replaces one that existed prior to acquisition by the agency. In that case, the value of the replacement cannot exceed the highest value placed on the replaced structure.

In Marin County, there are 20 section 11 properties owned by three local government agencies. The assessor-recorder's staff refers to them as Marin County Phillips Factor Properties. One appraiser is responsible for all the section 11 properties. Our review of the 20 properties showed that all parcels were appraised correctly.

We recommend that the assessor-recorder follow the holdings of the recent California Supreme Court case and include the valuation limit of Proposition 13.

3. Open-Space Properties

Marin County has approximately 93,000 acres of land subject to the assessment restrictions of sections 421 et. seq. as authorized by the California Land Conservation Act (CLCA) of 1965, open-space easements, and scenic restrictions. There are approximately 500 parcels currently affected by these three enforceable restrictions.

The Marin County open-space program is primarily the responsibility of a principal appraiser who is well informed on how to assess these properties. A personal computer (PC) program has been created which produces a new value estimate for each property. Rent, production, and expense questionnaires are sent out to all agricultural property owners every

other year. This information is analyzed after it is returned to the assessor-recorder and an update is made to the PC program, if needed.

CPTD's review of the program indicates that the overall handling of these properties is very good. Additionally, we found that the deficiencies (nonrenewals and scenic restrictions) noted in our last survey have all been rectified. Most of the program is automated utilizing a PC program; however, we have a few suggestions to improve a very good open-space program.

SUGGESTION 2: Revise the open-space procedures as follows: (1) use animal unit months (AUM's) in the analysis of grazing lands; (2) revise the procedure for valuing ponds and reservoirs on CLCA properties; and (3) develop a formal written summary of CLCA practices and procedures.

Use Animal Unit Months (AUM's) in the Analysis of Grazing Lands

Currently, rent for grazing land is calculated on a per acre basis when determining restricted value. This practice is utilized in the valuation of other open-space land. While the application of a per acre rent is an acceptable and easy method to use, it falls short of recognizing the various capabilities and qualities of grazing land (e.g., irrigated, open, steep, brushy, rocky).

On the other hand, rent based on the animal unit month (AUM) method is a simple and more accurate method for comparing and valuing grazing lands. By utilizing the animal unit as the basic measure of productivity we demonstrate that its relationship to grazing land is the same as tons, bushels, or bales are to other types of crop land. It is the most flexible measuring device for estimating carrying capacity and thus productivity of grazing lands.

The assessor-recorder's staff should follow the recommendation in Assessors' Handbook Section 521, *The Appraisal of Agricultural Property* (pages 92 - 113), and use animal units and AUM's when establishing comparability of sold properties or comparing rental income levels for grazing lands. Nongrazing land properties are more appropriately analyzed and valued on a rent per acre basis.

Revise the Procedures for Valuing Ponds and Reservoirs on CLCA Properties

Some CLCA properties in Marin County have water storage ponds or reservoirs. These ponds are sometimes utilized for irrigation purposes for the property on which they are located and on adjacent properties as well. It has been the practice of the assessor-recorder's staff to assign a zero (0) value to these ponds.

CPTD feels that this is an incorrect method which does not conform to section 423. If the pond is classified as an improvement, it must be assigned a base-year value which must be annually indexed by the inflation factor required by article XIII A of the Constitution. If the pond is classified as land, it should be assigned an economic rent per acre based on its being an integral part of the farming operation (and regarded as part of the net land area of a given property), and this income should be capitalized into the section 423 value. CPTD urges the

assessor-recorder to direct her staff to revise the method of assessing irrigation ponds and reservoirs on CLCA lands.

Develop Written Procedures

Although the present principal appraiser is quite familiar with the assessment of open space land, in the future whoever is assigned to the program may not possess this first-hand knowledge. Currently, the only information and guidance available is informal notes, which is not adequate should another appraiser unexpectedly be required to assume responsibility for the processing of these properties.

In the best interests of program continuity and maintaining high assessment standards, we suggest that the assessor-recorder develop written procedures for the assessment of open space properties. This would enable another appraiser to take over the program with minimal training.

4. Water Companies

Water companies may be either municipal systems located on government-owned land, private water companies regulated by the California Public Utilities Commission (CPUC), private water companies not regulated by CPUC, or mutual water associations. Each type presents different appraisal problems.

Municipal Water Systems

The Constitution of California exempts from taxation property owned by a local government within its boundaries [article XIII, section 3(b)]. This includes property owned by city water departments or water districts located within city limits or district boundaries. When the water system is located outside of the government agency's boundaries, this exemption does not apply. In those cases article XIII, section 11 provides that publicly owned water system property located outside its boundaries is taxable if it was taxable at the time it was acquired by the city or district.

We found the parcels owned by the municipal water systems located within city limits or district boundaries to be correctly exempt from taxation under article XIII, section 3(b). The parcels of the municipal water system located outside of its boundary were also assessed correctly under government-owned lands located outside their boundaries. (See additional discussion under section 11 properties.)

Mutual Water Companies

A mutual water company is a private association created for the purpose of providing water at cost, to be used primarily by its stockholders or members. The association, when incorporated, can enter into contracts, incur obligations, own property, and issue stock. However, if not incorporated, it can only do these things in the names of all its members. Corporations organized for mutual purposes are not subject to regulation by the California Public

Utility Commission unless they deliver water for compensation to persons other than stockholders and members. Our survey found no mutual water companies in Marin County.

Private Water Companies Regulated By the CPUC

Regulated private water companies owned by individuals, partnerships, or corporations are operated for profit and are regulated by the California Public Utilities Commission (CPUC). Real property owned by these water companies are subject to the valuation limits of article XIII A. Generally, the current market value of real property owned by private water companies is often less than its factored base year value, making it necessary to annually determine its taxable value as of the lien date.

There is only one private water company in Marin County subject to CPUC regulation. The assessor-recorder's staff reviews its value annually by comparing recent land sales and selecting the lower of the market or the factored base year value. In addition, the business property section annually receives property statements and CPUC reports which are reviewed for assessable property.

Private Water Companies Not Regulated By the CPUC

Unregulated water companies are similar to regulated water companies in that they are usually owned by individuals or corporations and are operated for profit. The usual reason that the water charge rates are not regulated for these companies is that they have escaped the notice of the CPUC. With no enforcement arm to search county records, the CPUC must depend mainly on dissatisfied ratepayers complaining to the CPUC of poor service or high rates. Our survey found no unregulated private water companies in Marin County.

To determine if the assessor-recorder's office has assessed all the water companies within Marin County, we received a listing of all water supply sources annually inspected by the Marin County Division of Environmental Health and the State's Office of Drinking Water. There were 20 listed water source properties and the county has assessed all of them.

Based on our current review of water companies we feel that the assessor-recorder's staff does a commendable job of valuing water companies. Their records are current and well documented. They follow the proper appraisal procedures in valuing water companies.

5. Manufactured Homes

The 1995-96 Marin County tax roll included 127 manufactured homes in rental parks with a total assessed value of \$4,713,556. Manufactured homes are classified as personal property when not secured to an approved permanent foundation.

The assessor-recorder's office has a good discovery program for manufactured homes. The office receives periodic listings from the Department of Housing and Community Development (HCD) of new sales, resales, changes of situs, and voluntary conversion of

manufactured homes from vehicle license fee (VLF) to local property taxation (LPT). The manufactured home appraiser assigned to handle all manufactured homes in the county follows up on each building permit that is received for manufactured home accessories (e.g., skirting, awnings, decks, porches, sheds, septic systems, water systems).

In our survey review, we checked many manufactured home building records and found that the previous problems (inconsistent appraisal practices and adjustments to selling prices for in-park location) have been corrected. Previously, the assessor-recorder's staff incorrectly deducted delivery and installation charges from the sale prices of new manufactured homes purchased from a dealer. Sales tax, delivery charges, and installation charges should be included in the sales price. In our current review, we did not find any manufactured home assessments where sales tax, delivery, and installation charges were deducted from the sale price.

The appraiser in charge of appraising manufactured homes has compiled a very useful and extensive procedure manual. Included in the procedure manual are sections on comparable sales, manufactured homes purchased from dealers direct, manufactured home park operator reports (park inventory), and a map of a large manufactured home park. Also, included in the procedure manual is material from the Board's Manufactured Homes Workshop for Fall 1993 and various letters and statutory provisions.

SUGGESTION 3: Consider value estimates listed in recognized manufactured home value guides and note these suggested values on appraisal records.

The assessor-recorder's staff uses comparative sales to determine the site value for manufactured homes sales in manufactured home parks. They have done an extensive study of sales in various manufactured home parks within Marin County to determine how much to deduct from the sale price for site value. Deductions for site value are based on the quality of the park and location of the manufactured home within the park. The more desirable parks have a higher deduction for site value. In most cases, after the site value is deducted from the sales price, the residual value is enrolled for the manufactured home values.

The assessor-recorder's office uses a residual method to value the manufactured homes in a park. However, in order to ensure that site value is not assessed in the assessment of the manufactured home, section 5803 directs the assessor to consider a recognized value guide for manufactured homes. Section 5803(b) provides that the assessor shall take into consideration sales prices for manufactured homes listed in recognized value guides (e.g., NADA publication, Kelley Blue Book).

In our survey review, we randomly examined manufactured home building records and found no discrepancies in the techniques used to value the manufactured homes, (e.g., cost approach for decks and other accessories). However, we did find inconsistent use of the manufactured home value guides. The staff used the guides occasionally for newer manufactured home, but rarely for older ones. We also noted that the appraisal records did not identify what value guides were used to value the manufactured homes.

The overall manufactured home program is very good, well maintained and run very professionally. It will be even better if the assessor-recorder's staff were to follow our suggestions.

6. Historical Properties

The Mills Act which added various provisions to the Government and Revenue and Taxation Codes provides a specific procedure for the valuation of certain historic property. Its purpose is to encourage the renovation and maintenance of historic properties throughout California by providing a property tax incentive for their owners.

Government Code sections 50280-50290 provide that an owner of a qualified historical property that is privately owned and not exempt from property taxation may enter into a contract with local governments. This contract restricts the use of the property for historical purposes and gives it tax benefits by establishing methods for its valuation. Government Code section 50280.1 stipulates that in order for a property to be eligible for such a contract, it must be listed on the National Register of Historic Places, or be listed on a State, county, or city register as historically or architecturally significant.

Historical properties are reassessed annually at the lowest of their factored base year value, current market value, or restricted value. Further, when valuing enforceably restricted historic properties, section 439.2 prohibits the assessor from considering comparable sales data and requires that the restricted value be determined by using the capitalization of income method. In the income method, a fair or market rent less "ordinary and necessary" expense is capitalized by a rate that is the sum of:

- (1) An interest component that is annually determined by the State Board of Equalization;
- (2) A risk component of four percent;
- (3) A component for property taxes; and
- (4) A component for amortization of the improvements.

In our review, we noted that there was one historical property in Marin County and that the appraisal staff closely adhered to the valuation guidelines for this restricted property type. The appraiser uses an in-house designed worksheet that follows the state guidelines. Economic rents were established by a detailed rental study. The expenses for insurance, maintenance, and utilities were deducted from the annual income and capitalized into value. The resulting Mills Act assessed value was compared with the Proposition 13 value and the current market value.

Our review of the historical property shows that the assessor-recorder of Marin County is doing a commendable job. The appraiser follows the statutory provisions in valuing the property. The file is well documented and is updated with new legislation and information on

historical properties. The file is so well organized that another appraiser could easily assume the ongoing appraisal of this special property.

IV. BUSINESS PROPERTY PROGRAM

A. INTRODUCTION

The business property section is part of the Valuation Division of the Marin County Assessor-Recorder's Office. It valued over \$780 million in personal property and trade fixtures for the 1996-97 local assessment roll. It is responsible for annually processing values on more than 12,500 commercial, industrial, or agricultural properties, 134 general aircraft, and 2,116 boats or documented vessels.

For 1996, the section mailed out about 6,500 Business Property Statements (BPS) for regular accounts, 670 for lessor/vendor type accounts, 60 Agricultural Property Statements (APS), 120 for banks (BPS with bank insert), 9 for insurance companies, and 342 exemption forms. The section also processed 4,672 direct-billing accounts, and valued the personal property of 1,325 apartment houses. These figures do not include aircraft, boats, or documented vessels.

The business property program is maintained by a staff of one supervising auditor-appraiser, one auditor-appraiser III, two auditor-appraiser II's, and two auditor-appraisers I's. In addition, there are four assessment recording technicians (ART) who assist in the processing of business property statements and other assessment duties. One auditor-appraiser II and one ART are assigned full time to vessels.

The business property section introduced a new software program in 1995 which has been used to prepare the 1995 and 1996 assessment rolls. The program is called the Unsecured Property Assessment System (UPAS). Data on all business property accounts had to be entered into the new program for 1995. It enabled the business property staff to complete their 1996 statement processing workload in record time and with greater accuracy and consistency.

UPAS has many benefits. Some of these are: it carries forward reported cost and assessed values year to year; it insures more consistency in assigned valuation factors; it can produce unlimited ad hoc reports; it has a built-in mechanism to track audits; it will allow bar coding in the future; and the data are available to all who are connected to the system.

However, the assessor-recorder's office sacrificed the balance of the business property program for the last two years to ensure that UPAS was operational. No mandatory audits have been performed in the last four years. In addition, no waivers of the statute of limitation for those missed years were obtained. Part of that problem was due to staffing cuts, but the main reason for the lack of completed mandatory audits for the last two years was the commitment of the staff to installing and testing UPAS. That decision to suspend audits violates the requirement of section 469 for mandatory audits.

We commend the staff for their efforts in implementing the new program and fine tuning it to meet their needs. It was a time-consuming task. Now that UPAS is in place, it speeds up property statement processing and direct billings. UPAS will enable the ART's to do more of the routine assessment work. This will allow auditor-appraisers to spend more time doing their primary function---auditing business property accounts.

There is a comprehensive policy and procedures manual for the real property section; however, there are few formal written procedures for the business property staff. The assessor-recorder's office should address this lack of a comprehensive policy and procedures manual for the business property section. We also repeat our 1993 recommendations concerning the assessment of apartment personalty and pleasure vessels. In addition, we include a recommendation concerning the valuation factors used to assess computers.

Sampling Results

The CPTD sampling of business property and trade fixtures on the 1993-94 roll included six secured property assessments and 33 unsecured property assessments for a total of 39 samples. In 30 of these sample items, the county values differed from the value determined by CPTD staff. Specifically, the local assessment roll values exceeded CPTD's appraisals in 14 of the sampled items, while in 16 cases CPTD's values were higher.

Value differences noted in 13 of the samples were caused by differences in economic lives and cost indices applied to business property. Seven of the 13 items also included differences because of reporting errors. Three of the differences resulted from reporting errors alone. On two samples, the county valued the property as a possessory interest and the CPTD appraiser valued the properties in fee. In two other samples, the county double assessed leasehold improvements by assessing them on both the secured and unsecured rolls. In six samples, the county valued boats using a depreciation method; the state used the BUC guide. Differences in the remaining four samples were the result of error in acquisition dates, nonfiling by the taxpayer, and a difference in new construction valuation.

B. AUDIT PROGRAM

Section 469 requires an audit of the books and records of a business at least once each four years (mandatory audits) when locally assessable trade fixtures and tangible business personal property have a full value of \$300,000 or more. Section 532 requires assessments to be made within four years after July 1 of the assessment year in which the property escaped taxation or was underassessed. If the audit cannot be completed within the prescribed time, an extension is available under the provisions of section 532.1.

The mandatory audit program is one of the main functions of the business property section because it is a statutorily mandated function of the assessor. In addition, the audit program in any assessor's office serves multiple purposes in the assessment function. First, it is the single most important activity the assessor can do to improve taxpayer reporting. In our 1993 sampling of unsecured business property assessments in Marin County, 17 samples had errors caused by taxpayer reporting problems. Errors in reporting business property on the annual property statement are one of the most significant and common differences noted between the county's values and the values determined by the CPTD in our survey of most counties in California. This type of error is found at all value levels of taxpayer reporting. For those accounts falling into the mandatory audit threshold, that is, \$300,000 or more for four consecutive years, the routine mandatory audit will discover these reporting errors.

A second benefit of an audit program is the increased revenue that these audits generally add to the county's general fund. Most counties in California recognize that an active audit program will generate net tax revenues equal to or greater than the cost of auditing. Another benefit in conducting an audit program is that it allows investigation and resolution of reporting and appraisal problems that arise during property statement processing.

Budgetary restrictions in recent years have reduced the number of auditor-appraisers in the assessor-recorder's office. A strong audit program generating additional revenue would justify maintaining existing staffing and could provide support for additional audit positions. This would be helpful for Marin County because they are so far behind in their mandatory audit program.

1. Mandatory Audits

RECOMMENDATION 3: Reinstate the mandatory audit program and bring it to a current status.

CPTD's 1993 assessment practices survey of Marin County made the recommendation to bring the mandatory audit program to current status. The staff last completed mandatory audits in the 1990-91 fiscal year. At that time, a review of the 55 audits completed showed them to be well-documented, comprehensive, and easy to follow.

Our 1993 recommendation has not been implemented. The staff has not completed any mandatory audits in the last four years. In addition, all years 1993 and prior have been lost because waivers of the statute of limitations were not obtained on any of the accounts. Unless audits are performed or waivers obtained before June 30, 1998, the opportunity to audit accounts for the year 1994 will also expire.

Although temporary cuts in auditor-appraiser positions and time devoted to create and install a new software program for processing business property statements has lessened the staff time available to perform audits, a real matter of concern is management's decision not to do any audits. In discussions with management, they said that when staffing cuts were made it was decided to concentrate remaining resources on real property appraisals because it would produce more value change. However, although staffing cuts were temporary, the audit program was not resumed. Management recognizes the mandatory requirement of section 469 but still feels that an audit program is not cost effective. However, the business property section does plan on resuming a mandatory audit program in 1997. Clearly, the mandate in section 469 to audit accounts over \$300,000 once every four years has not been a priority in the last few years.

Another use of auditor-appraiser time that detracts from time available to do audits is the business property section's practice of doing a field canvass each year. Using some of the alternative methods of discovery in place of the field canvass might free up additional time to do audits. Alternative methods that can be used include reviewing sales tax permit cards, telephone listings of businesses by street address, updated listings of tenants and subtenants from the landlord, and business licenses.

The new computer program used by the business property section in 1995 and 1996 produces an annual list of "Business Enrollments With Audit Recommended." At this time, the program only has a two-year history. What is needed is at least a four-year listing to effectively track mandatory audit activity. The 1996 list has 360 line items. Seventy of those are multiples of the same company. Forty-three of the 360 were not on the 1995 list and probably do not meet the four-year requirement to be a mandatory audit. The net figure for 1996 is 247 accounts. Thus, an estimate of 250 mandatory audit accounts is a reasonable estimate of the total mandatory workload over a four-year period. Obviously, the existing audit staff would be unable to audit that many accounts for the 1994 year before the June 30, 1998 deadline when the 1994 year falls beyond the statute. This further illustrates the seriousness of the county's noncompliance with the provisions of section 469.

The business property staff should resume doing audits as soon as possible and give high priority to complying with the mandatory requirements of section 469. Waivers should be obtained for the 1994 year on all mandatory accounts. Mandatory accounts should be analyzed and priority given to the following accounts:

- (1) Those with known reporting problems or other deficiencies.
- (2) Those that will probably result in value change.
- (3) Those property owners who refuse to sign waivers.

The following suggestions should be helpful in completing audits on a timely basis:

- (1) Do a pre-audit examination of the business property statement (BPS) and attachments to determine areas of special concern.
- (2) Use a standard audit-request letter asking for records and documents that are to be made available to the auditor-appraiser during the audit. Include requests for special information needed as a result of the pre-audit examination.
- (3) When necessary, before mailing the audit-request letter, telephone the contact person (whose name appears on the business property statement) and discuss the type of records the taxpayer has so the audit request can be more specific.

- (4) Use a special request letter for “in-house” audits adding special instructions such as asking the taxpayer to document an audit trail for an entry on the BPS back to the general ledger or to explain an entry or an omission on the BPS.
- (5) Use a specialized audit software program to accelerate the processing of audited data and finalizing audit results. (If Marin County does not have one, very good ones can be obtained from other counties and adapted to Marin County.)
- (6) Always establish deadline dates when requesting information from a taxpayer.
- (7) Use the county cooperative audit program.

The business property section needs to start an active audit program at once. At least two auditor-appraisers should be assigned full time to conduct audits. This mandatory program should be given priority over other assignments until the audit backlog has been eliminated.

2. Waivers

SUGGESTION 4: Obtain signed waivers of the statute of limitations when a mandatory audit will not be performed on time.

The assessor-recorder’s staff have not obtained waivers during the last four years even though they have not performed mandatory audits during that period. By failing to obtain waivers when necessary, the assessor-recorder’s staff may have allowed taxable property to permanently escape assessment because they could not enroll the escapes within the time specified in the statute of limitations. Also, possible errors in overvaluation may not have been discovered.

Section 532 requires that an escape assessment discovered by an audit must be made within four years after July 1 of the assessment year during which the property escaped assessment or was underassessed. If the assessor cannot complete a mandatory audit (or any other audit) within the prescribed time limit, he or she may request from the taxpayer an extension of time to avoid possible loss of revenue. This can be accomplished by having the taxpayer sign a waiver to extend the statute of limitations, as authorized by section 532.1.

Waivers protect the legal rights of both the assessor and the taxpayer. Without a waiver, the county and the taxpayer lose their legal recourse to correct any assessment errors beyond the four-year statute of limitation. Typically, most audit programs result in the discovery of taxable property escaping assessment. Without a waiver of the statute of limitations, the tax dollars derived from any escape assessments beyond the four-year statute are permanently lost to the county. Similarly, the taxpayer’s interest in correcting a prior year overassessment cannot be

addressed unless it is within the four-year statute of limitations, or if a signed waiver from the taxpayer has extended the time period.

Obtaining waivers not only prevents the loss of revenue from potential escape assessments but it puts the taxpayer on notice that audits are being performed. Such notice should improve the level of accuracy and completeness of the data reported on the annual business property statement.

Postponing the audit to the next cycle presents no financial loss to the county, if waivers are obtained to prevent loss of revenue from possible escape assessments. Waivers should be sent to the taxpayer for signature well in advance of the statutory deadline for the audit. This allows time for the audit to be scheduled and completed within the statutory deadline in cases where the taxpayer refuses to sign a waiver.

Because no audits have been performed, all accounts which achieved mandatory status for 1994 are due to be audited before June 30, 1998 unless waivers are obtained. Therefore, we recommend that waivers be requested for all of the mandatory audit accounts. Those accounts without a waiver should be audited first.

3. Nonmandatory Audits

SUGGESTION 5: Develop a formal nonmandatory audit program.

CPTD's prior assessment practices survey of the assessor-recorder's office made the recommendation to initiate a nonmandatory audit program. This has not been accomplished. We repeat this only as a suggestion in this report, because this is not a mandatory function of the office and the priority should be to complete existing mandatory audits.

Performing mandatory audits should be given top priority. Nevertheless, a plan should be developed to audit selected accounts which fall below the \$300,000 threshold. While coverage of all business property accounts is not possible, an audit program for accounts below the mandatory level can produce tax change greater than the cost of the program. The audit program for nonmandatory audits should give emphasis on producing the greatest value change with the smallest investment of audit staff time. Accounts showing little or no likelihood of value changes should be considered low-priority accounts.

Although there is no legal requirement to audit smaller businesses, no audit program is complete unless it includes a representative sampling of all sizes and types of accounts. Errors in reporting business property costs on the annual property statement are a significant and common problem. Unless an audit is performed, these reporting errors will probably continue year after year. A taxpayer could potentially misreport costs to keep assessed values below the mandatory audit threshold and thus avoid a mandatory audit. In addition, reporting and appraisal problems uncovered during the year should be flagged and included in this audit program.

The staff should send out waivers to selected nonmandatory accounts that show a likelihood of value changes. If those accounts are not audited before the next assessment cycle, the following year's returns should be examined carefully for changes or corrections in reported amounts for prior years which may have been prompted by the expectation of an audit.

When using waivers, it is important that waiver requests be sent out early in the fiscal year. This notifies taxpayers, prior to filing next year's business property statements, that an audit is pending. This can have a positive effect on the completeness and accuracy of future business property statements.

A nonmandatory audit program will improve the accuracy and completeness of information reported on business property statements. It will also be a revenue source that will carry over in succeeding years. We therefore suggest that the assessor-recorder implement this program.

C. PROCEDURES MANUAL

RECOMMENDATION 4: Develop a policy and procedures manual pertaining to the operation of the business property section.

The operation of the real property section of the Marin County Assessor-Recorder's Office is governed by a comprehensive policy and procedures manual called Assessment Procedures Manual. While this is the case with the real property section, the business property section operates without a formal, written procedures manual. This section operates on loose-leaf instructions, memorandums, and verbal instructions emanating from the head of the section. These instructions covered the following areas of the business property program: processing of business property statements, data entry, and mail processing. No formal written procedures exists for completing mandatory/nonmandatory audits, valuing lease equipment, boats, aircraft, leasehold improvements, construction in progress, and personal property in apartments, estimating assessments, processing direct billing accounts, and other related areas of the business property program.

A written policy and procedures manual is essential, especially in this era of rapid and continuous change in our tax laws and valuation procedures. A manual provides specific standards and uniform procedures to assist staff in the preparation of audit and appraisal reports, including other technical work products. Current manuals can help ensure that the assessor-recorder's office work is consistent with approved policies and practices. In addition, a written procedure manual will address those issues that are not so common and yet have to be dealt with as part of the assessment program, e.g., how to treat construction in progress, what to do when a company acquires pollution control equipment, what procedure to follow when a lease terminates and the leased equipment is no longer reported by the lessor, whether to audit businesses that own boats or aircraft with full a value of more than \$300,000. It is especially important to formulate written policies and procedures since the business property section now has a new computer program which requires changes to existing procedures.

We, therefore, recommend that the assessor-recorder's office develop a formal written policy and procedures manual pertaining to the operation of the business property section. It should include detailed steps regarding assessment of aircraft, apartments, boats, construction in progress, non-filing businesses, leased equipment, and audit scheduling, preparation, and notification, among others.

D. ESTIMATED ASSESSMENTS

If a taxpayer who is required to file a property statement under the provisions of section 441 fails to do so, the assessor is nevertheless required to assess any taxable property and add the penalty required by section 463.

Section 501 provides that "if after written request by the assessor, any person fails to comply with any provision of law for furnishing information required by sections 441 and 470, the assessor, based upon information in his possession, shall estimate the value of the property and, based upon this estimate, promptly assess the property." (Emphasis is added.)

SUGGESTION 6: Revise procedures for estimating assessments of business property.

We repeat this recommendation from our 1993 assessment practices survey of Marin County only as a suggestion in this report. The business property staff estimate the value of personal property owned by assesses who failed to file property statements by correctly adding a 10 percent penalty to the prior year's assessed value as required by section 463. For the succeeding year and every year thereafter, this estimated value is multiplied by 110 percent to arrive at the current year's assessed value. This practice was modified in 1994 when the business property staff opted to use the minimum estimated value of \$15,000 plus penalty for those who have never filed property statements.

The widespread and indiscriminate use of this minimum estimated value may result in a great disparity between the assessed and the actual value. To illustrate, business entities, such as, barber shops, independent contractors (e.g., enrolled agent, insurance agent, consultant), therapist (e.g., MFCC, psychiatrist, psychologist), often do not have enough equipment to reach the threshold of \$15,000 in assessed value. Business entities, such as cabinet manufacturing, fitness gym, restaurant, and stores, may not only have a significant amount of equipment but also fixtures and structural improvements, in which case the total may exceed the \$15,000 minimum assessed value.

Although the assessor-recorder is authorized under section 501 to make an estimate in case of nonfiling of property statements, the law also provides that the estimate be based upon information in his or her possession; not an estimate that is arbitrarily fixed in amount nor in percentage.

To remedy this situation and to have a closer approximation of full value, we suggest that the assessor-recorder's staff change the practice of estimating assessments. As we recommended in our 1993 assessment practices survey, follow-up methods, such as, personal visits, telephone calls, and/or letters, should be attempted before making estimated assessments.

Audits, whether mandatory or nonmandatory, should always be a part of a good and well-managed business property assessment program and would help diminish the problem of nonfiling businesses.

E. BUSINESS PROPERTY STATEMENT PROCESSING

1. Program

The business property section has a good program in place for processing business property statements (BPS's). The existing program has been enhanced with the adoption of UPAS which has been used to prepare the 1995 and 1996 unsecured assessment rolls.

When business property statements are received, they are date stamped and checked for completeness. If the statement is blank without an explanation, it is set aside for review. If the statement is marked "same as last year," the previous year's statement is checked for completeness and the file is marked for review. Statements that are unacceptable are copied and returned to the taxpayer for completion.

After the initial screening of property statements, ART's are assigned to process those accounts which are routine and under the mandatory audit level of \$300,000. Accounts over \$300,000, or new accounts, or those evidencing substantial changes, or those involving specialized types of properties, are assigned to auditor-appraisers.

2. Written Authorization

A large portion of the business property assessments on the assessment roll are based on data submitted on annual business property statements. To achieve a more accurate roll, it is important that the data on these statements be accurate and complete. Since the majority of business property accounts fall into the non-mandatory category, and thus are seldom audited, the statement must be accurate and filed by a responsible party in compliance with sections 441, 463 and other applicable sections of the Revenue and Taxation Code as well as section 172 of the Title 18 of the California Code of Regulations (Property Tax Rule 172).

SUGGESTION 7: Ensure that a written authorization is included with the filing of business property statements by corporations.

We reviewed 12 business property statements filed by corporations. Eight of these did not have any written authorization in the files. Currently, if the assessee is a corporation, the business property section's policy is to accept any signature on the BPS.

Subdivision (a) of Property Tax Rule 172, with reference to the filing requirement of business property statements in section 441 provides in part that:

“[w]hen signed by an agent or employee other than a member of the bar, a certified public accountant, a public accountant, an enrolled agent, or a duly appointed fiduciary, the assessee’s written authorization of the agent or employee to sign the statement on behalf of the assessee shall be filed with the assessor . . . The assessor may at any time require a person who signs a property statement and who is required by this section to have written authorization to provide proof of his authorization.”

Subdivision (b) of the same rule provides in part that:

“[i]n the case of a corporate assessee, the property statement . . . shall be signed by an officer or by an employee or agent whom the board of directors has designated in writing . . . by name or by title, to sign such statement on behalf of the corporation. . . A record of the written authorization or the appointment and designation required by this subsection shall be retained by the assessee for a period of six years from the date of its execution.”

Subdivision (c) provides in part that:

“[p]roperty statements . . . signed by an agent or other representative of the assessee shall include a declaration signed under the penalty of perjury which shall specify that the person signing is authorized to sign on behalf of the assessee.”

We suggest that the assessor-recorder require that a written authorization be included with the filing of the business property statement if it is filed by someone other than the assessee. By requiring such written authorization to be filed, an assessor will increase the accountability of whoever signs and files the annual property statement. Under section 441, the property statement shall be declared to be true under the penalty of perjury. It is important to require an officer or authorized agent to be responsible for the completeness and accuracy of the annual property statement by signing the declaration.

Adhering to Property Tax Rule 172 will help prevent careless reporting errors or omissions by an unauthorized preparer that can be brushed off as merely a clerical error. The written authorization calls attention to the fact that the corporate assessee is liable for any consequences of the employee’s or agent’s errors in reporting. Officers of a corporation or agents authorized by the board of directors are more likely to review the business property statement and its preparation before signing it and assuming personal liability.

F. SPECIFIC PROPERTY TYPES

1. Apartment Personalty

Personal property in apartment complexes is reportable on the annual property statement. Such personal property includes, but is not limited to: refrigerators, gym equipment, laundry equipment, maintenance equipment, office furniture, and common area furniture.

The Marin County Assessor-Recorder's business property staff assessed approximately 1,300 apartment house accounts for the assessment roll 1996-1997. This is equivalent to about 10 percent of the total number of business property accounts.

RECOMMENDATION 5: Revise procedures for assessing personal property in apartment buildings.

The current practice of the assessor-recorder's staff regarding business property in apartments in Marin County is to levy an arbitrary amount of \$400 per unit assessment to cover the value of all personal property (refrigerators and draperies, at a minimum) that may be included with each apartment house or apartment complex. This is an increase from \$250 per unit which was the basis of our recommendation in our 1993 report. As a matter of policy, the assessor-recorder's office does not send property statements to apartment house owners.

The assignment of \$400 per unit is an automatic process triggered by computer generated use-codes: "MU" which stands for "Multi-Unit Small" and "MO" which means "Multi-Unit Large." Once the apartment use-code is entered in the property characteristic base, the computer program determines the full cash value for apartment personalty based on the \$400 per unit value.

The automatic nature of this process raised the question of equitable assessment when this practice is applied to apartment building in-process or project being developed - there's not always a 100 percent guarantee that the project will be built in time for the current lien date, nor is there a guarantee that the project will not be abandoned. In addition, the assessor-recorder's staff applies this arbitrary personal property assessment to all apartments whether furnished or unfurnished.

We repeat the recommendation in our 1993 assessment practices survey that the business property staff discontinue the arbitrary assessment of apartment personal property. In order to make a more accurate assessment, the staff should mail out the Board-prescribed "Apartment House Property Statement" (Form 571-R) to all apartment owners. An assessment based on the information provided in the property statement is more accurate and equitable compared to one that is automatic and arbitrary.

2. Leasehold Improvements

Leasehold or tenant improvements are building improvements or fixtures installed as additions to the basic building shell. They typically include display fronts, lighting, carpets, and partitions. These items are usually included in replacement cost estimates (processed by real property appraisers) and are reported on business property statements (processed by business property personnel). It is easy for duplications and omissions to occur.

SUGGESTION 8: Upgrade the assessment of leasehold improvements by: (1) assigning the assessment of leasehold improvements to the real property section; and (2) re-emphasize coordination between the real property and business property sections.

Assign to the Real Property Section

We repeat our recommendation in our 1993 assessment practices survey of Marin County that the assessor-recorder assign the leasehold improvements to the real property section and that they be assessed with the land as one appraisal unit.

As discussed in our 1993 survey, the responsibility for the assessment of leasehold improvements is as fragmented as before. The business property section assesses all leasehold improvements under \$25,000 and all retail tenant improvements, regardless of the amount, reported on the business property statements. The real property section is responsible for all other leasehold improvements. When the lessee of the land is the owner of an entire structure, and there is a long-term lease, the improvements and the land are appraised as one unit.

It is the real property section that is responsible for assessing land and all improvements erected or affixed to the land. Real property appraisers have the resources (e.g., cost manuals, sales data), expertise, and experience in valuing real property.

We therefore suggest that the review and assessment of all leasehold and tenant improvements be assigned to the real property section, and that they be treated as one appraisal unit.

Re-emphasize the Coordination Between the Real Property and Business Property Sections

If the assessor-recorder elects not to assign this property type to the real property section, then the assessor-recorder must improve communication between the real property section and the business property section. When the real property section of the Marin County Assessor-Recorder's Office receives a copy of a building permit for tenant improvements and they elect not to assess them, a referral in the form of a one-page memorandum is made to the business property section. This referral includes a notation that the real property section has not assessed the tenant improvements. It now becomes the responsibility of the business property section to assess the improvements.

Leasehold improvements reported on Schedule B of the business property statements are automatically assessed by the business property section when the reported total amount is less than \$25,000. If more than \$25,000, a referral to the real property section is made. In most cases, a copy of the Schedule B is attached to the referral.

The business property section has a registry to track referrals to the real property section. A staff member records on the registry the date the referral was sent to and returned by the real property section.

Our review of the registry disclosed that there were outstanding/unanswered referrals dating back more than a year. Several referrals made in 1994, 12 referrals in May-June of 1995, and 19 referrals in the middle of 1996 remain outstanding. There were no follow-up procedures to these referrals.

We also found three referrals made by the real property section to the business property section that were not assessed by either section. Although these referrals do not necessarily mean that there were unassessed improvements, they nevertheless indicate that there are problems with the existing referral system. We suggest that the assessor-recorder re-emphasize the correct and continued use of the registry to coordinate the assessment of leasehold improvements by the business property and real property sections.

SUGGESTION 9: Clearly identify leasehold improvements on appraisal records.

A major transportation company provided to the Marin County Assessor-Recorder's Office a listing of foreign improvements (improvements located on land assessed by the State Board of Equalization) located on the company's land. The county's real property staff reviewed the list and determined that several foreign improvements added no value to the land. We randomly reviewed several of these records and found no remarks concerning foreign improvements on them. The appraisal records did not indicate that there are foreign improvements located on the property, what the improvements are, or why they were considered to have no added value to the land.

Therefore, we repeat the suggestion we made in 1993. We suggest that the appraisers make proper notation on the appraisal records of any information that is used to establish an opinion of taxable value for all foreign improvements. If the item is assessed to someone other than the owner of the land, the secured appraisal record should indicate to whom the item is assessed and the unsecured account number of the foreign improvement. This is good appraisal record keeping and will be instrumental in conducting an expedient and easy review of the parcel.

3. Vessels

The Marin County Assessor-Recorder's Office assessed 2,116 vessels for the 1996-97 tax roll with a total assessed value of \$85,892,029. The primary methods of discovering assessable vessels are Department of Motor Vehicles (DMV) transaction reports, harbor master's

marina report, referrals from other counties, Coast Guard records, boat owners, and field inspection on an as needed basis only.

Our review of the marine unit's filing system shows a well-organized filing system with each vessel account having its own individual folder. The filing system is divided between those vessels with CF numbers and those arranged by their document number. Most of these individual folders contained a document called "Public Inquiries Report" which has a summary of information from boat owners that were provided either in person and/or by telephone conversation.

However, we do have a recommendation to ensure that the assessor-recorder's assessment program of boats complies with current statutory provision.

RECOMMENDATION 6: Upgrade vessel assessment procedures by: (1) assessing all boats; (2) appraising boats at market value; (3) applying the section 463 penalty correctly; and (4) requiring certain vessel owners to file annual vessel property statements.

Assess All Boats

The assessor-recorder has a policy of only enrolling vessels with a value of \$10,000 or greater. This policy was fully implemented for the 1995/96 roll, when the number of vessel assessments dropped from 6,908 in 1991 to 2,258 for 1995. Assessed Values went from \$122,291,537 (1991) to \$50,168,808 (1995).

The assessor-recorder has the authority under section 228 to exempt from taxation vessels with market value of \$400 or less. However, since the county board of supervisors has not adopted a low-valued property exemption resolution under section 155.20, the assessor-recorder has no authority to exempt any vessels from assessment unless as provided in section 228. In addition, even if the Board of Supervisors adopted a low-valued property exemption resolution, there currently is no statutory provision to exempt property in excess of \$5,000. The assessor-recorder has arbitrarily set an exemption limit beyond that allowed by existing law. We therefore recommend that the assessor-recorder assess all boats, unless otherwise exempt by law.

Appraise Boats at Market Value

In Marin County vessels are initially assessed at market value using the BUC Research Used Boat Price Guide (BUC) or the National Automobile Dealers Association Small and Large Boat Appraisal Guide (NADA). The auditor-appraiser enrolls the reported purchase price if it falls within the BUC or NADA value range. If the reported purchase price significantly differs from the BUC or NADA value range, the auditor-appraiser uses the low value in the high-low value range of the guides. The conservative approach of choosing the low value in the high-low value range of the guides is dictated by the "soft" market for boats.

Once the initial value is set, future assessments are annually reduced by an assigned percentage. This reduction for the last three years was 5 percent a year. While this

simplifies the assessment process, it assumes a fixed depreciation rate for each boat which may or may not reflect the market.

In our 1993 survey we recommended that the assessor-recorder stop using a fixed percentage reduction for vessels and use a valuation method based on research, or a market survey, of boat values. A method that the assessor-recorder's staff may consider is to categorize pleasure boats into two groups (new and used), and within each group, categorize them into six subgroups (cruiser/powerboat, sailboat, inboard, onboard, inboard/outboard and jet ski). Trends in market values for these groups and subgroups could be determined by comparing published boat valuation guides for the current and previous year. Once trend factors are computed, they should be applied to all boats within each group and subgroup. This approach is much more sound from an appraisal viewpoint because a closer approximation of values will be attained.

We, therefore, repeat our 1993 recommendation that the assessor-recorder's staff stop using a fixed percentage reduction valuation method and instead, develop and use a market derived valuation method.

Apply Penalty Correctly

When a vessel is purchased in or moved into Marin County, a vessel owner's report (VOR) is mailed to the owner requesting pertinent information necessary for assessment. Additional information (i.e., homeowner's exemption, sale or transfer of boat's location) is requested by sending a vessel owner update. The only time the assessor-recorder's staff will send the State Board of Equalization prescribed Form AH 576-D or Vessel Property Statement (VPS) is when the boat is likely to be a commercial and/or documented boat subject to the preferential four percent assessment under section 227.

Section 441 requires owners of taxable personal property with an aggregate cost of \$30,000 or more for the initial assessment year or an aggregate cost of \$100,000 or more for any subsequent assessment year to file a signed property statement with the assessor.

In our review of the boats assessment procedures, we discovered that the assessor-recorder's staff assessed a 10 percent penalty for boat owners who filed their VOR late or did not return their VOR. Section 463 provides that the assessor can only apply the 10 percent penalty on those late or unfiled State Board of Equalization prescribed forms like the VPS, but not the VOR.

Therefore, we recommend that the assessor-recorder either use the VPS and apply the penalty only for late or unfiled VPS's or continue to use the VOR and stop applying the penalty for late or unfiled VOR's.

Require Certain Vessel Owners to File Annual Vessel Property Statements

We recommend that each year the assessor-recorder send a vessel property statement (AH 576-D) to all vessel owners whose vessels cost \$100,000 or more. This will comply with the statutory provision of requiring certain owners of personal property to file a

property statement, but will also serve as a good method of discovering escaped property. The latter will come in the form of additional equipment that boat owners traditionally keep in their expensive vessels and which must be declared (and assessed) in filing a vessel property statement. Request for information on additional equipment is not included on the Marin County vessel owner's report nor in their vessel owner update form.

4. Computers

The valuation of computers and related equipment (herein referred to as computers) has been a contested issue between taxpayers and assessors for the last few years. In its continuing effort to maintain proper, equitable, and uniform property tax assessment, the State Board of Equalization (the "Board"), in Letter to Assessors (LTA) 95/26, dated April 5, 1995, recommended valuation factors for assessors to use when valuing non-production computers for the 1995 lien date. These 1995 factors were embodied in two valuation tables labeled: "(1) Computers with Component Cost of Over \$50,000" and "(2) Computers with Component Cost of \$50,000 or Less."

On April 3, 1996, the Board issued LTA 96/27, which included our recommended valuation factors for assessors to use when valuing non-production computers for the 1996 lien date. In issuing LTA 96/27 the Board expanded the two 1995 valuation tables into three tables: (1) Mainframe Computers (Computers Costing \$500,000 or More); (2) Mid-Range Computers (Computers Costing Over \$25,000 and Up to \$499,999) and (3) Personal Computers (Computers Costing \$25,000 or Less). These new tables contained valuation factors that were developed after consultation with the computer industry and the assessors.

RECOMMENDATION 7: Assess computers using the Board's recommended factors.

For the 1995 lien date, the assessor-recorder valued computers by using only the factors from the "\$50,000 or less component cost" table. The assessor-recorder's staff did not consider using the "over \$50,000 component cost" table, reasoning that the type of computer system reported on the property statement is unknown. They also made no effort to contact the taxpayer as to the breakdown of the costs.

In assessing computers for the 1996 lien date, the assessor-recorder did not follow the recommended factors as contained in our LTA 96/27. The assessor-recorder's staff correctly applied the valuation factors from LTA 96/27 for mainframe computers and personal computers. But for the mid-range computers, the assessor-recorder's staff substituted the factors from the 1995 "over \$50,000 component cost" table, instead of using the valuation factors for mid-range computers as provided in LTA 96/27.

The 1996 valuation factors were developed after extensive data-gathering, analysis, and consultation with the computer industry and assessors. The data for mid-range computers was less extensive and less consistent as compared to the data for mainframe and personal computers. In recognition of the assessors' concerns over the mid-range factors, the Board left open the possibility of a revised table provided there are additional data to support that

different factors would be more appropriate. Absent such data and new factors, LTA 96/27 contains the current Board's recommendation for the valuation of computers.

Although it can be argued that additional data should have been obtained to develop the 1996 factors for mid-range computers, the Board adopted the mid-range table using the data available. We believe that the data for the 1996 factors are superior to that used for the 1995 factors. Substituting the 1995 valuation factor for the 1996 mid-range computer table is contrary to the Board's guidelines, and results in an assessment other than that recommended by the Board.

We therefore recommend that the assessor-recorder assess all computers by following the factors contained in our LTA 96/27 unless she has better, supportable information indicating other factors. It is the Board's position that the proper application of the factors would yield a reasonable estimate of current market value of computers for the 1996 lien date.

V. OTHER ASSESSMENT PROGRAMS

A. INTRODUCTION

In addition to the two major assessment programs (i.e., real and business property) that an assessor must operate in order to produce an assessment roll, the assessor-recorder maintains a number of auxiliary programs that interfaces with them. This section of our survey discusses five such programs: roll changes, disaster relief, assessment of low-valued properties, management information system, and assessment appeals.

We found a problem concerning the calculation of interest on escaped assessments on the unsecured roll. Specifically, the countywide system is currently not programmed to calculate such interest on escapes for the unsecured roll; therefore, the assessor-recorder's office does not notify the county auditor of any interest required.

We found that the assessor-recorder's office has maintained an excellent program to handle statutory adjustments to the roll due to disasters.

We found that the assessor-recorder has adopted a policy of exempting certain low-valued properties. However, since Marin County does not have a low-value property exemption resolution, this policy has no legal sanction. We therefore, recommend that the assessor-recorder abandon this policy.

In our review of the office management information system, we find that the assessor-recorder's office has taken steps to develop an automated management information system. There are numerous software programs that were developed in-house and many reports generated that assisted the management in decision making. However, three areas of concern are raised in this review. We are concerned about the lack of documentation of all in-house computer software programs; the lack of a safe offsite storage location for backup programs and data; and the lack of a secure location for certain computer hardware.

Finally, we reviewed the assessment appeals program within the assessor-recorder's office and the interaction between the assessor-recorder's office and the assessment appeals board. Not only is there excellent cooperation between these two agencies, but they also share a common database for tracking the progress of the assessment appeals. This database was created by the assessor-recorder's office for use by both agencies. In addition, steps were taken to ensure that there was no conflict of interest in the use of the database and in the processing of applications. Furthermore, we found the handling of appeals within the assessor-recorder's office to be very efficient and thorough.

B. ROLL CHANGES

An escape assessment is an assessment that was not included on the certified assessment roll on July 1 of any assessment year. An escape must be added to the roll within the statute of limitations as specified in section 532.

Certain types of escape assessments arise from situations that automatically require the imposition of interest as provided in section 506. The interest, at a rate of three-fourths of one percent per month, is on the amount of tax from the date or dates the tax would have become delinquent if they had been timely assessed, to the date the additional assessment is added to the assessment roll.

RECOMMENDATION 8: Notify the county auditor of escaped assessments requiring section 506 interest.

This recommendation was made in the 1993 Marin County assessment practices survey but has not been fully implemented.

Prior to 1995, the business property section applied the section 506 interest by checking the appropriate box on the roll correction form. The form was forwarded to the auditor-controller's office for interest calculation and enrollment.

Currently, a different procedure is followed. If a secured roll assessment is subject to a change (escape, refund, correction), the business property section uses the "Change Order Audit Report" (#1250-546N-691) to transmit the information to the enrollment section. This section keys the information into the assessor-recorder's system. Information on this system is transmitted regularly to the Tax Assessment Property Information System (TAPIS), the countywide property tax database. If the report indicates that 506 interest is to be applied, it is calculated by TAPIS.

However, for changes to the unsecured roll, the information is keyed into the assessor-recorder's UPAS and then transmitted to TAPIS. At the present time, TAPIS is not programmed to calculate interest for any escaped assessments on the unsecured roll, nor is the calculation done manually by the auditor-controller's office. Though the assessor-recorder's staff is aware of this deficiency in the TAPIS, they have yet to identify any of the escapes for the 506 interest.

We strongly recommend that the business property section identify all escaped assessments where section 506 interest are applicable. This is especially important when the business property section resumes auditing the mandatory accounts under section 469. Once the business property section resumes the procedure of identifying assessments with 506 interest, the auditor-controller's office will have to either manually calculate that interest amount or request programming that will enable TAPIS to do it.

C. DISASTER RELIEF

The Marin County Board of Supervisors has provided that any assessee of any taxable property, whose property is damaged or destroyed through no fault of his or her own, may apply for property tax relief on that property, pursuant to county ordinances 2287 and 2701. These ordinances are implemented under section 170.

The Marin County Assessor-Recorder's Assessment Procedures Manual (APM 607.030-607.031) provides an excellent guideline for valuation of property damaged by calamity, and for the reduction of assessments for that part of the fiscal year that the property was damaged. The amount of assessment reduction is based on the proportional loss in market value due to the damage.

The assessor-recorder's staff has three main sources of information to help identify disaster/calamity events: newspapers, phone calls, and information obtained by staff appraisers. Upon notification of a property that has undergone a disaster, an ART documents the event, (if applicable), attaches the newspaper article, pulls the appraisal records, and submits the documents to the Systems and Standards Division.

The Systems and Standards Division sends out the "Application For Reassessment of Property Damaged By Misfortune Or Calamity" to the assessee. The assessee is given up to six months from the date of the calamity event to respond to the initial mailing. The date that the calamity application was mailed is entered into the assessment database and on the appraisal record. The documents are forwarded to the area appraiser for review and then, refiled.

When the calamity application is returned to the office, it is reviewed by the Systems and Standards Division. If it does not qualify, a denial letter is sent to the assessee explaining why it was rejected. If the claim is approved, the application is copied and the appraisal record is pulled from the file. An entry is made in the computer database specifying when the calamity application was received. A binder is maintained with copies of the application which is annotated with the date mailed, the date returned, and each claimant's name and address. Though most claims are returned, some are not.

The appraisal record and application are forwarded to the Valuation Division for review. The appraiser responsible for the geographical area does the necessary research and estimates the damage. The appraiser also verifies that the claim is valid.

After the reduced value for the damage is determined, it is entered on the appraisal record by the appraiser and forwarded to the enrollment section which updates the assessment database. The appraiser also submits a status form to production monitoring that changes the status of the parcel on the PAL from an active calamity to a recheck. The recheck comment includes a review date for a predetermined date in the future to investigate if the damage has been repaired. When the damage is repaired, the original taxable value is restored.

We examined the appraisal records of 23 properties with structural damage from fires of \$30,000 or more. The fire damage information was received from the Marin County Fire Department, San Rafael Fire Department, and the county appraisal records of the Mt. Vision fire that occurred on October 3, 1995. We found that the assessor-recorder's staff handled each case properly.

Despite the staff cutbacks in recent years, the assessor-recorder's staff are doing an excellent job and should be commended for their professionalism and expertise in assessing property damaged by misfortune and calamity.

D. ASSESSMENT OF LOW-VALUED PROPERTIES

The county board of supervisors is authorized to exempt from property tax all real and personal property with a full value so low that, if not exempt, the total taxes, special assessments, and applicable subventions on the property would amount to less than the cost of assessing and collecting them (section 155.20). The board of supervisors should determine at what level of exemption the costs of processing assessments and collecting taxes exceeds the proceeds. The maximum permissible exemption level has been increased by legislation to \$5,000 as of January 1, 1996.

RECOMMENDATION 9: Assess all property unless statutorily exempt.

Marin County does not have a low-valued property exemption resolution. However, for 1994-95 it was the assessor-recorder's policy to exempt personal property below \$15,000 and vessels below \$10,000. In addition, for 1995-96, the assessor-recorder's staff was assessing all business accounts regardless of value, but vessels below \$10,000 in value were exempted. Since the assessor-recorder has no statutory authority for this policy, she should stop this practice.

However, it appears that the assessor-recorder has recognized the need to deal with low-valued properties. In light of this need, the assessor-recorder should request that the county board of supervisors adopt a resolution to exempt low-valued properties. A low-valued property exemption resolution would allow the assessor-recorder to eliminate costly processing of these types of assessments.

We stress the need for legal sanction of any exemption from property taxation. If it is intended that small supplemental assessments and low-valued property be exempted, the assessor-recorder should ask the board of supervisors to adopt enabling ordinances pursuant to sections 75.55 and 155.20. Pending adoption of such a resolution, the assessor-recorder should direct her staff to discontinue their informal exemption of small assessments.

E. MANAGEMENT INFORMATION SYSTEM

Rapid technological advances in computer hardware and software during the past two decades have resulted in increased automation in the commercial, industrial, retail, and government environments. Tasks previously performed by hand are now more likely to be performed by computer. Management of information and operations are increasingly accomplished utilizing automated management information and decision support systems. Since the early 1980's, the Marin County Assessor-Recorder has recognized this trend and has sought to increase efficiency in processing and analyzing appraisal information, and managing personnel and workload through the use of computers.

In 1982, the assessor-recorder's office started work on an automated management information system. Starting with simple regression calculations, the system expanded through the years to where currently it provides a sophisticated array of data and reports to both staff and management. Budget and staff reductions during 1993-1994 and subsequent fiscal years, has

increased the assessor-recorder's reliance on the automated management information system. This increased reliance brings with it an increased need for vigilance on the part of the assessor-recorder. Lack of, or failure of, one or more of the management controls used to safeguard valuable hardware, software, and data from damage, theft, unauthorized access, or loss of data integrity could have disastrous effects on the assessor-recorder's operations.

Controls can be grouped into two broad categories: (1) general controls and (2) application controls. General controls relate to all computer activities. They include control over the development, modification, and maintenance of computer programs and control over the use of and changes to data maintained on computer files. Application controls relate to individual computerized applications. They should provide reasonable assurance that the recording, processing, and reporting of data are properly performed.

Comments in this report address general controls only. General controls encompass all controls for:

- Developing new programs and systems;
- Changing existing programs and systems;
- Controlling access to programs and data; and
- Controlling computer operations.

The Marin County Assessor-Recorder's automated management information system hardware consists of Macintosh microcomputers configured into a Local Area Network (LAN). Most applications are written in OMNIS, a database management system. The computers are interconnected by servers located in the San Rafael and Novato office locations. In San Rafael, servers are located in the real property and business property sections.

RECOMMENDATION 10: Improve the automated management information system by: (1) documenting all in-house computer software programs; (2) storing the backup programs and data at a safe offsite location; and (3) placing all computer hardware in a safe, secure location.

Document All Programs

The assessor-recorder has documentation describing the general purpose of automated system programs, including keystrokes needed to operate the programs. But major programs within the system do not have documentation for the original program line code, or for any changes made to the line code. In one program, changes were made to the system by examining the program on-line, then attempting to properly place line code. No flowchart or other documentation was available to describe the logic or purpose of the various lines of program code.

When programs exceed over 64,000 lines of program code, changes are difficult, but may become impossible as operating system software changes, or as personnel familiar with the program leave. System errors may also become impossible to correct without any means of analyzing the program logic. We recommend documentation of existing programs, including

flowcharts, listings, and run manuals. We also recommend proper documentation for changes made to the program, including documentation of management approval of changes.

Storage Backup

The database of one program is backed up daily, first to a computer hard drive memory, then to a separate tape memory. The supervisor who performs this task then takes the tape to his personal residence. This backup procedure leaves the county assessor-recorder at risk if something were to happen to the supervisor, particularly if the office program was damaged at the same time, due to fire or vandalism. Potential loss of this valuable program could result. We recommend storing all backup material in an offsite, secure, and fireproof location.

Place Computer Hardware In a Safe Location

Hardware used in the assessor-recorder's LAN is located, in some cases, where there is potential for theft or personal injury to staff. At the Novato area office, much of the hardware sits in an office near a window which faces a major street in Novato. This hardware could easily be stolen or vandalized in one quick "smash and run" crime. Likewise, at the San Rafael main office some server hardware and connecting circuitry are located along a main exit corridor.

This poor placement of hardware with exposed circuitry in a corridor with high pedestrian traffic could result in damage of the equipment due to spilled drinks or other unforeseen accidents. It also creates a potential shock hazard to employees attempting to rapidly exit the building, particularly in emergency situations, such as fires or earthquakes. We recommend the assessor-recorder review the security of her computer equipment. The equipment should be relocated or enclosed to protect the equipment and her staff.

We also found during our review of the assessor-recorder's automated management information system that one major program was written by a company that is no longer in business. This company was owned and operated by one person who is now working for another company. Apparently budget constraints limited the programming costs of this project. As a result the program currently has some processing problems and likewise will continue to have problems in future as property tax law changes. The assessor-recorder should review her future systems needs and determine if the current system will support those needs. The assessor-recorder should also determine whether alternative programmers are available to support the current program changes or to assist in major system modifications.

F. ASSESSMENT APPEALS

1. Introduction

The assessment appeals function is sanctioned under article XIII, section 16, of the California Constitution, which provides that the legislature shall determine the manner and procedure of assessment appeals. Sections 1601 through 1641.1 are the statutory provisions to guide county board of supervisors in the appeals function. Government Code section 15606(c) directs the Board of Equalization to prescribe rules and regulations to govern local boards of equalization, and the Board has promulgated sections 301 through 326 of Title 18 of California Code of Regulations (Property Tax Rules 301 through 326) regarding assessment appeals.

We conducted a review of the appeals functions involving both the activities of the county appeals board and the assessor-recorder's office as they relate to assessment appeals. The two agencies must have a close working relationship in order to make the entire appeals process more efficient, particularly in the areas of case scheduling and document processing. At the same time, the statutory separation of the authority and responsibility of both agencies must be maintained.

The number of assessment appeals has drastically increased during the recent California recession resulting in the decline of real estate values. Most of the increase in filings is based on the claim that the market value of real property is lower than the factored base year value. A market value that is less than the factored base year value is referred to as a "Proposition 8" value in recognition of its ballot title.

Not all requests submitted to the assessor-recorder's office for Proposition 8 reductions in Marin County result in actions that are satisfactory to the applicants. Those who are not satisfied may very likely make formal appeals to the Assessment Appeals Board. Thus, the increase in appeals activities.

The tables below summarizes the Marin County appeals activities over the last five years.

<u>Year</u>	<u>Remaining Appeals at Beginning of Year</u>	<u>New Filings for the Year</u>	<u>Number of Appeals Resolved during the Year</u>
1991-92	106	219	222
1992-93	103	347	232
1993-94	218	867	555
1994-95	530	627	736
1995-96	421	961	847
1996-97	535	----	----

<u>Year</u>	<u>Heard</u>	<u>Stipulations</u>	<u>Withdrawn</u>
1991-92	?	?	?
1992-93	46	113	73
1993-94	56	338	161
1994-95	55	448	233
1995-1996	97	398	352
1996-97	18	99	82

2. Assessment Appeals Boards

The Marin County Assessment Appeals Board meets on the third Monday of each month or as often as needed. Appeal board hearings are heard in the chambers of the county board of supervisors. All board hearings are recorded. Marin County has two appeals boards. Both boards consist of three members appointed by the county board of supervisors.

The Clerk of the Board of Supervisors acts as the Clerk of the Assessment Appeals Board (Clerk). This administrator is charged with the following responsibilities concerning assessment appeals: accepting appeals applications; reviewing applications for completeness and accuracy; maintaining a database of appeals; tracking and scheduling; preparing the hearing docket; providing clerical support at the hearings; preparing minutes of the hearings and written findings of the boards, when requested; and reporting the actions of the board to the auditor-controller.

In 1995, the Marin County Assessment Appeals Board received approximately 1,000 new assessment appeals. The initial impact of the increased applications was in the time required by the Clerk to process an applications before forwarding it to the assessor-recorder's office. Due to this tremendous increase, there was an unexpected burden on the Clerk to both process and review each appeal, resulting in the assessor-recorder's office receiving the applications late. In addition, once the applications were received, the information was entered into a database to track the progress of the appeals within her office.

It became apparent to both agencies that there was a duplication in the database that both the Clerk and the assessor-recorder maintained for appeals purpose. As a result, the assessor-recorder's office offered to create a common database for use by both agencies. Great care was taken to ensure that there was no conflict of interest created in the use of this common database. All applications received and reviewed by the Clerk for completeness are forwarded to the assessor-recorder's office, which then keys the information into this database.

The assessor-recorder's office should be commended on both reducing the workload of the Clerk while at the same time getting the application's to her staff in a more timely manner. This is a excellent example of two county offices working well together.

3. Assessment Appeals Team

An assessment appeals team, consisting of one supervising appraiser and four appraisers, has been created to prepare all the assessor-recorder's appeals cases. The appraisers on this team specialize in either residential or commercial/industrial properties.

The appeals team is responsible for coordinating the entire appeals process within the assessor-recorder's office. This team oversees all appeals functions and coordinates the actions with the appellant and the Clerk. They use a computer program to monitor the progress of activities on all appeals.

We examined 50 appeals files. Forty-two appeals had stipulated values. The cases were all well documented as to the reason for the value change and method of valuation.

Overall, we feel that the assessor-recorder's office has done an excellent job in responding to the increased workload. The assessment appeals program is well administered and the staff is experienced and knowledgeable both in the appraisal field and the laws and regulations pertaining to the appeals process.

THE ASSESSMENT SAMPLING PROGRAM

The need for compliance with the laws, rules, and regulations governing the property tax system and related assessing activities is very important in today's fiscally stringent times. The importance of compliance is twofold. First, the statewide maximum tax rate is set at 1 percent of taxable value. Therefore, a reduction of local revenues occurs in direct proportion to any undervaluation of property. (It is not legally allowable to raise the tax rate to compensate for increased revenue needs.) Secondly, with a major portion of every property tax dollar statewide going to public schools, a reduction in available local property tax revenues has a direct impact on the State's General Fund, which must backfill any property tax shortfall.

The Board, in order to meet its constitutional and statutory obligations, focuses the assessment sampling program on a determination of the full value of locally taxable property and eventually its assessment level. The purpose of the Board's assessment sampling program is to review a representative sampling of the assessments making up the local assessment rolls, both secured and unsecured, to determine how effectively the assessor is identifying those properties subject to revaluation and how well he/she is performing the valuation function.

The assessment sampling program is conducted by the Board's County Property Tax Division (CPTD) on a five-year cycle and described as follows:

- (1) A representative random sampling is drawn from both the secured and unsecured local assessment rolls for the counties to be surveyed.
- (2) These assessments are stratified into three value strata, identified and placed into one of five assessment categories, as follows:
 - a. Base year properties -- those properties the county assessor has not reappraised for either an ownership change or new construction since the previous CPTD assessment sampling.
 - b. Transferred properties -- those properties where a change in ownership was the most recent assessment activity since the previous CPTD assessment sampling.
 - c. New construction -- those properties where the most recent assessment activity was new construction added since the previous CPTD assessment sampling.

- d. Non-Proposition 13 properties -- those properties not subject to the value restrictions of article XIII A.
 - e. Unsecured properties -- those properties on the unsecured roll.
- (3) From the assessment universe in each of these fifteen (five assessment types times three value strata) categories, a simple random sampling is drawn for field investigation which is sufficient in size to reflect the assessment practices within the county. (A simple nonstratified random sampling would cause the sample items to be concentrated in those areas with the largest number of properties and might not adequately represent all assessments of various types and values.) Because a separate sample is drawn from each of these assessment types and value categories, the sample from each category is not in the same proportion to the number of assessments in every category. This method of sample selection causes the raw sample, i.e., the "unexpanded" sample, to overrepresent some assessment types and underrepresent others. This apparent distortion in the raw sampling is eliminated by "expanding" the sample data; that is, the sample data in each category is multiplied by the ratio of the number of assessments in the particular category to the number of sample items selected from the category. Once the raw sampling data are expanded, the findings are proportional to the actual assessments on the assessment roll. Without this adjustment, the raw sampling would represent a distorted picture of the assessment practices. This expansion further converts the sampling results into a magnitude representative of the total assessed value in the county.
- (4) The field investigation objectives are somewhat different in each category, for example:
- a. Base year properties -- for those properties not reappraised since the previous CPTD assessment sampling: was the value properly factored forward (for the allowed inflation adjustment) to the roll being sampled? was there a change in ownership? was there new construction? or was there a decline in value?
 - b. Transferred properties -- for those properties where a change in ownership was the most recent assessment activity since the previous CPTD assessment sampling: do we concur that a reappraisal was needed? do we concur with the county assessor's new value? was the base year value trended forward (for the

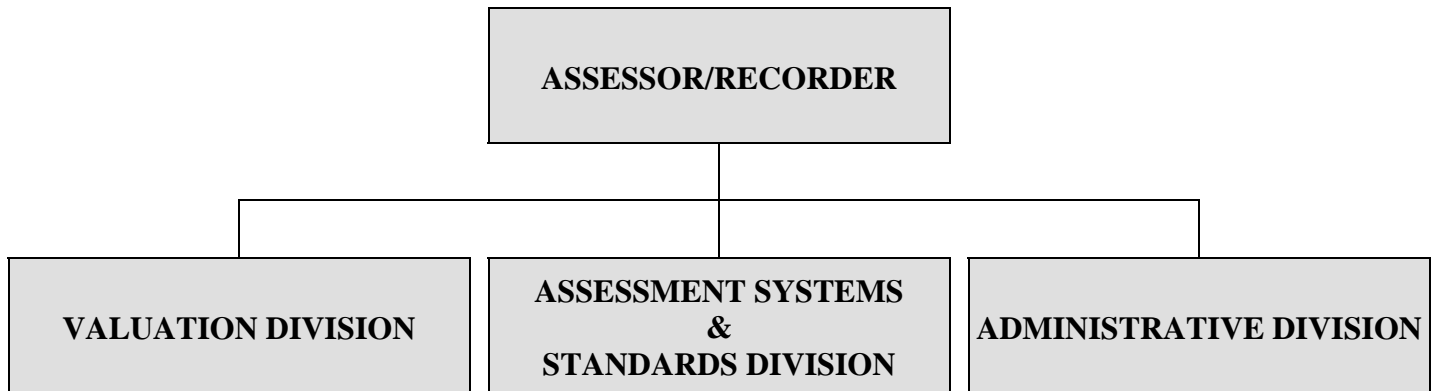
allowed inflation adjustment)? was there a subsequent ownership change? was there subsequent new construction? was there a decline in value?

- c. New construction -- for those properties where the most recent assessment activity was new construction added since the previous CPTD assessment sampling: do we concur that the construction caused a reappraisal? do we concur with the value enrolled? was the base year amount trended forward properly (for the allowed inflation adjustment)? was there subsequent new construction? or was there a decline in value?
 - d. Non-Prop 13 properties -- for properties not covered by the value restrictions of article XIII A, do we concur with the amount enrolled?
 - e. Unsecured properties -- for assessments enrolled on the unsecured roll, do we concur with the amount enrolled?
- (5) The results of the field investigations are reported to the county assessor, and conferences are held to review individual sample items whenever the county assessor disagrees with the conclusions.
 - (6) The results of the sample are then expanded as described in (3) above. The expanded results are summarized according to the five assessment categories and by property type and are made available to the assessment practices survey team prior to the commencement of the survey.

One of the primary functions of the assessment practices survey team is to investigate areas of differences disclosed by the sampling survey data, determine the cause and significance of the differences, and recommend changes in procedures that will reduce or eliminate the problem area whenever the changes are cost effective or are required by legal mandate. Consequently, individual sample item value differences are frequently separated into segments when more than one problem is identified, and the results expanded and summarized according to the causes of the differences. Much of the support for the County Property Tax Division's recommendations in the form of fiscal and numerical impact is drawn from the expanded sample data, and statistics relating to specific problems have been incorporated in the text of this report.

Emphasis is placed on factors directly under the county assessor's control. Differences due to factors largely beyond the county assessor's control, such as (1) conflicting legal advice, (2) construction performed without building permits, (3) unrecorded transfer documents, (4) assessment appeals board decisions, and (5) factors requiring legislative solution are specifically identified in the text when these problems are reflected in the statistics.

MARIN COUNTY ORGANIZATION CHART



ASSESSOR'S

RESPONSE

TO

BOARD'S

RECOMMENDATIONS



OFFICE OF THE ASSESSOR-RECORDER

JOAN C. THAYER
ASSESSOR-RECORDER

August 14, 1997

Mr. William B. Jackson
Chief, County Property Tax Division
Property Taxes Department
State Board of Equalization
450 N. Street,
Sacramento, California

Dear Mr. Jackson:

Enclosed are the County Assessor-Recorder's responses to the 1993-1994 State Board of Equalization Assessment Practices Survey of Marin County. (Section 15645 of the California Government Code).

As a new Assessor, I am most appreciative of the survey process. It can only help me to do a better job. Your staff is to be commended for their professionalism and courtesy while in the field.

We agree with many of your recommendations and suggestions, especially those relating to our business personal property section. We are in the process of implementing as many of your recommendations as possible given current resources. Since 1995 when I first took office, my budget has been cut three times, most recently in the amount of \$602,000. Moreover, my office is not a recipient of AB 818 moneys. These factors have impacted my office's ability to handle a burgeoning workload with a concomitant increase in legislative mandates. Therefore, there are some recommendations which are beyond our current capabilities.

Your office performs a most valuable function for all assessors. It is my belief that surveys promote uniformity in assessment practices throughout the state, and provide assessors with valuable ideas and information for maximizing operational efficiency.

Sincerely yours,

A handwritten signature in cursive script that reads "Joan C. Thayer".

Joan C. Thayer

RECOMMENDATION 1: Use comparable sales occurring no more than 90 days after the subject's date of transfer when valuing property by the comparative sales approach.

RESPONSE: It is the Assessor-Recorder's policy to select the best comparable sales available by considering numerous criteria including near in time. A comparable sale occurring more than 90 days after the subject's date of transfer may be the most reliable indicator of value depending on the availability and comparability of other sales. Unless Section 402.5 is revised to define "near in time" as no more than 90 days after the event date rather than the lien date, the Assessor-Recorder will continue to consider these sales in searching for the best indicators of value. In preparing for an assessment appeal, the Assessor-Recorder has always adhered to Property Tax Rule 324(d) and restricted the comparable sale search to no more than 90 days after the event date.

RECOMMENDATION 2: Revise possessory interest practices by: (1) using appropriate capitalization rates and (2) assessing private uses of Marin Center.

RESPONSE: (1) The Assessor-Recorder will extract rates from sales of comparable possessory interests, when available;
(2) Private uses of Marin Center will be reviewed.

RECOMMENDATION 3: Reinstate the mandatory audit program and bring it to a current status.

RESPONSE: The Assessor-Recorder agrees with the state recommendation and intends to reinstate the mandatory audit program as soon as possible. Marin was unable to qualify for AB 818 funding and recently sustained a \$602,000 budget cut with concomitant reductions in staffing including the loss of an auditor appraiser I position - factors which have impeded reinstatement of the program.

RECOMMENDATION 4: Develop a policy and procedures manual pertaining to the operation of the business property section.

RESPONSE: The Assessor-Recorder agrees with the state recommendation and intends to begin development of a policy and procedures manual.

RECOMMENDATION 5: Revise procedures for assessing personal property in apartment buildings.

RESPONSE: The Assessor-Recorder does not have the staff to process an additional 1,300 statements. It is felt that reinstating the mandatory audit program is a better utilization of staff time.

RECOMMENDATION 6: Upgrade vessel assessment procedures by: (1) assessing all boats; (2) appraising boats at market value; (3) applying the section 463 penalty correctly; and (4) requiring certain vessel owners to file annual vessel property statements.

RESPONSE: The Assessor-Recorder agrees with the State recommendation and intends to (1) enroll all assessable vessels in the future; (2) appraise at market value as many vessels as staffing permits; (3) it is the Assessor-Recorder's policy to apply Section 463 penalties where required and (4) review vessel accounts and require annual property statements where appropriate. The Assessor-Recorder will also explore the feasibility of a low-value ordinance, exempting properties under \$5,000.

RECOMMENDATION 7: Assess computers using the Board's recommended factors.

RESPONSE: The Assessor-Recorder has implemented this recommendation.

RECOMMENDATION 8: Notify the county auditor of escaped assessments requiring section 506 interest.

RESPONSE: It is the Assessor-Recorder's policy to notify the Auditor-Controller of 506 interest. Failure to do so was either an oversight or for a period during which the billing system could not accept escapes flagged for such interest. Currently, all 506 interest requirements are sent to the Auditor-Controller.

RECOMMENDATION 9: Assess all property unless statutorily exempt.

RESPONSE: The Assessor-Recorder intends to work with County Counsel in drafting a low value ordinance.

RECOMMENDATION 10: Improve the automated management information system by: (1) documenting all in-house computer software programs; (2) storing the backup programs and data at a safe offsite location; and (3) placing all computer hardware in a safe secure location.

RESPONSE: It must be understood that the Assessor has no single "management information system", but rather employs a number of systems which are production or facilitation oriented. In response to the recommendations above: (1) All our major systems are written in OMNIS, a cross-platform application from Blyth Software. The application has the inherent capability to produce its own documentation, and this has been done in most systems. Where it has not been completed, efforts are underway to do so; (2) All systems are backed up and, in general, enjoy the same level of physical security which is extant throughout the county's buildings, i.e., the buildings are locked at night and the offices within the the buildings are also locked, with

plant maintenance staff present at all times. (3) The comments in (2), preceding, apply.

With regard to our two major systems, the real property work activity/production monitoring system and the business/personal property system (UPAS), require and do enjoy special levels of treatment, as follows:

(1) Real property work activity/production monitoring system: the library and data file are backed up daily to two alternating hard drives. A weekly back-up is made to an optical disk which is stored in a magnetic media file, fire-proof safe located in a separate part of the Assessor's Office. Quarterly, a backup is made to optical disk which is stored off-site in an atomic vault at Secured Storage in Tahoe City. We are presently researching the possibility of erecting a physical enclosure around the data/relay rack and file servers.

(2) Business/personal property system (UPAS): The "Analysis of Needs - Project Development Specification" document is a starting point for program documentation. In addition, documentation for specific activities is being refined; quarterly, as above, a backup is made to optical disk which is stored off-site in the atomic vault at Secured Storage in Tahoe City; all UPAS hardware is located in the Business Property office which is always occupied or locked.